

# **CITY OF HAYWARD**

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)



CITY OF  
**HAYWARD**  
HEART OF THE BAY

## **Agenda**

**Tuesday, September 13, 2016**

**7:00 PM**

**Council Chambers**

## **City Council**

**Mayor Barbara Halliday**  
**Mayor Pro Tempore Sara Lamnin**  
**Council Member Francisco Zermeno**  
**Council Member Marvin Peixoto**  
**Council Member Al Mendall**  
**Council Member Elisa Márquez**  
**Council Member Mark Salinas**

**SPECIAL JOINT CITY COUNCIL/HAYWARD GEOLOGIC HAZARD ABATEMENT  
DISTRICT BOARD MEETING**

**CALL TO ORDER Pledge of Allegiance: Mayor/Board Member Halliday**

**ROLL CALL**

**CLOSED SESSION ANNOUNCEMENT**

**PRESENTATION**

Recognition for Fran David, Retired City Manager

Oath of Office for City Manager McAdoo

**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.*

**BOARDS/COMMITTEES/COMMISSIONS/TASK FORCES**

1. [APPT 16-006](#) Appointments and Reappointments to Council's Appointed Bodies (Report from City Clerk Lens)

**Attachments:** [Attachment I Staff Report](#)  
[Attachment II Resolution Appointing and Reappointing](#)  
[Attachment III List of Appointments and Reappointments](#)

**CONSENT**

2. [MIN 16-070](#) Minutes of the Special City Council Meeting on July 12, 2016

**Attachments:** [Attachment I Draft Minutes of July 12, 2016](#)

3. [MIN 16-071](#) Minutes of the City Council Meeting on July 19, 2016

**Attachments:** [Attachment I Draft Minutes of July 19, 2016](#)

4. [MIN 16-072](#) Minutes of the Special City Council Meeting on July 26, 2016

**Attachments:** [Attachment I Draft Minutes of July 26, 2016](#)

5. [CONS 16-417](#) Approval of Resolution Authorizing Approval of Scopes of Work with:  
1. Engeo Incorporated to Serve as Hayward GHAD Manager; 2. Patricia Curtin of Wendel, Rosen, Black and Dean to Serve as Hayward GHAD Clerk/Legal Counsel; and 3. Watermark Asset Management Incorporated to Serve as Hayward GHAD Treasurer.

**Attachments:** [Attachment I Staff Report](#)  
[Attachment II Resolution GHAD Officers](#)  
[Attachment III Engeo Scope of Work](#)  
[Attachment IV Watermark Scope of Work](#)  
[Attachment V WRBD Scope of Work](#)  
[Attachment VI GHAD Resolution 16-001](#)

6.     [CONS 16-441](#)     Approval of Final Map 8242 Associated with the Previously Approved Vesting Tentative Map and Proposed Development of Twenty-Four Single-Family Homes on a 1.9-Acre Site at 23645 and 23653 Eden Avenue in the Mount Eden Area; KB Home, South Bay (Applicant/Owner)
- Attachments:**     [Attachment I Staff Report](#)  
                          [Attachment II Resolution](#)  
                          [Attachment III Map](#)  
                          [Attachment IV Site Map](#)
7.     [CONS 16-483](#)     Mission Boulevard/Blanche Street and Gading Road/Huntwood Way Intersections Safety Improvements: Rejection of Bids, Approval of Revised Plans and Specifications and Call for Bids
- Attachments:**     [Attachment I Staff Report](#)  
                          [Attachment II Resolution](#)  
                          [Attachment III Project Location Map](#)  
                          [Attachment IV Bid Summary](#)
8.     [CONS 16-514](#)     Utility Service Agreement (16-01) - Pavel Gerasimov (Owner) - Adoption of a Resolution approving a Request for Water Service and Sewer Service for a Property at 4195 Picea Court in Unincorporated Alameda County, and Authorizing the City Manager to File an Application with the Alameda County Local Agency Formation Commission for Approval of an Out-of-Service Area Agreement and to Execute Utility Service and Public Street Improvement Agreements
- Attachments:**     [Attachment I Staff Report](#)  
                          [Attachment II Resolution](#)  
                          [Attachment III Location Map](#)
9.     [CONS 16-521](#)     Recycled Water Storage and Distribution System Project: Adoption of Revised Authorizing Resolution and Revised Reimbursement Resolution Required for the State Revolving Fund Loan Application
- Attachments:**     [Attachment I Staff Report](#)  
                          [Attachment II Authorizing Resolution for SRF Funding](#)  
                          [Attachment III Reimbursement Resolution for SRF Funding](#)



10.     [CONS 16-522](#)     Economic Development Small Business Revolving Loan Fund -  
Loan Request MYL Restaurant Concepts, LLC
- Attachments:**     [Attachment I Staff Report](#)  
                              [Attachment II Resolution](#)
11.     [CONS 16-525](#)     Commercial Aviation Site Lease with Aviation Training, Inc.
- Attachments:**     [Attachment I Staff Report](#)  
                              [Attachment II Resolution](#)  
                              [Attachment III Aviation Training, Inc. Leasehold Site Location](#)
12.     [CONS 16-539](#)     Amendment to Professional Services Agreement with ENGEO,  
Inc.
- Attachments:**     [Attachment I Staff Report](#)  
                              [Attachment II Resolution](#)
13.     [CONS 16-546](#)     EBRCSA Phase 3 Implementation - Authorize the City Manager  
to Negotiate and Execute a Lease-Purchase Agreement with  
Motorola Solutions for Mobile and Portable Radios and  
Associated Equipment Not to Exceed \$2,600,000
- Attachments:**     [Attachment I Staff Report](#)  
                              [Attachment II Resolution](#)  
                              [Attachment III Proposal from Motorola Solutions](#)
14.     [CONS 16-548](#)     Hayward Executive Airport Electrical Improvements Project -  
Award of Contract
- Attachments:**     [Attachment I Staff Report](#)  
                              [Attachment II Resolution](#)  
                              [Attachment III Project Location Maps](#)
15.     [CONS 16-549](#)     Adoption of a Resolution Approving an Employment  
Agreement with the City Manager and Authorizing the Mayor  
to Execute the Agreement on Behalf of the Council
- Attachments:**     [Attachment I Staff Report](#)  
                              [Attachment II Resolution](#)

**LEGISLATIVE BUSINESS**

16.     [LB 16-092](#)     Introduction of Ordinance Extending the Utilities Users Tax to June 30, 2039, as Authorized by Voters on June 7, 2016 (Report from City Attorney Lawson)

**Attachments:**   [Attachment I Staff Report](#)  
                          [Attachment I Proposed Ordinance](#)  
                          [Attachment III Chapter 8 Article 18 of the HMC](#)

17.     [LB 16-093](#)     Designation of Voting Delegates and Alternates for the League of California Cities 2016 Annual Conference (Report from City Clerk Lens)

**Attachments:**   [Attachment I Staff Report](#)  
                          [Attachment II Resolution](#)  
                          [Attachment III League's Conference Procedures and Form](#)  
                          [Attachment IV Annual Conference Resolutions Packet](#)

**CITY MANAGER'S COMMENTS**

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

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

Oral reports from Council Members on their activities, referrals to staff, and suggestions for future agenda items.

**ADJOURNMENT**

**NEXT MEETING, September 20, 2016, 7:00 PM**

**PUBLIC COMMENT RULES**

*The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. Speakers will be asked for their name before speaking and are expected to honor the allotted time. Speaker Cards are available from the City Clerk at the meeting.*

**PLEASE TAKE NOTICE**

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

**PLEASE TAKE FURTHER NOTICE**

*That the City Council 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

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**File #:** APPT 16-006

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Appointments and Reappointments to Council's Appointed Bodies

**RECOMMENDATION**

That the City Council adopts the resolution (Attachment II) confirming nine appointments and seven reappointments to the City's Boards, Commissions, and Task Forces as follows: Community Services Commission (2); Downtown Hayward Business Improvement Area Advisory Board (4); Keep Hayward Clean and Green Task Force (8); Library Commission (1); and Planning Commission (1).

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	List of Appointments and Reappointments



DATE: September 13, 2016

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Appointments and Reappointments to Council's Appointed Bodies

#### RECOMMENDATION

That the City Council adopts the attached resolution (Attachment II) confirming eleven appointments and seven reappointments to the City's Boards, Commissions, and Task Forces as follows: Community Services Commission (2); Downtown Hayward Business Improvement Area Advisory Board (4); Keep Hayward Clean and Green Task Force (10); Library Commission (1); and Planning Commission (1).

#### SUMMARY AND BACKGROUND

The recruitment to fill twenty-four vacancies on the City's Boards, Commissions, and Task Forces was conducted from April 21 through July 15, 2016. A total of thirty-three applications were received by the deadline and thirty-one applicants qualified to be considered for appointment.

At its [July 19, 2016 Special City Council Meeting](#), the Council confirmed the process for selecting applicants to interview to fill the twenty-four vacancies. The City Council also reviewed reappointment requests and reports created by staff liaisons of the Council's appointed bodies comprising the members' attendance records, completion of mandatory training and statutory requirements, and overall performance. The Council also approved two requests to declare two seats vacant based on low attendance and lack of participation. Furthermore, the Council also accepted the recommendation from Economic Development staff to appoint two qualified representatives to the Downtown Business Improvement Area Advisory Board (DBIA). The DBIA continues to have three vacancies due to lack of eligible applicants for the DBIA. At the end of the meeting, seven requests were recommended for reappointment at the September 13, 2016 Council meeting.

During the meeting, the City Manager recommended that the Council consider the possible reorganization and restructuring of the Council Economic Development Committee and the Personnel Commission. Based on the recommendation, the Council placed the recruitment of those two bodies on hold until further Council discussion could occur.

On July 18, 2016, the Keep Hayward Clean and Green Task Force (KHCG) Subcommittee, comprising Members Natasha Neves, Jillian Hogan, Angelica Moore and Megha Salpekar interviewed the applicants who had indicated interest in serving on the Task Force by selecting this as the preference on their applications. Sixteen individuals were invited to interview and twelve attended the interviews with the Subcommittee. The Subcommittee identified seven applicants who were recommended for appointment to the Task Force. Applicants selected by the Subcommittee were recommended to the City Council.

According to the interview selection process confirmed on July 19, 2016, Council Members individually communicated their selections (up to five applicants per each body) to the City Clerk by July 21, 2016. Based on that information, the City Clerk invited thirteen individuals to interview with the City Council on July 26, 2016. A total of ten individuals interviewed with the Council, two did not attend, and one rescinded her application. At the conclusion of the interviews, the Council selected individuals for service as outlined in Attachment III.

#### NEXT STEPS

The City Council discuss the possible reorganization of the Council Economic Development Committee and the Personnel Commission at an upcoming meeting.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



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Kelly McAdoo, City Manager

## RESOLUTION NO. 16-

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

RESOLUTION CONFIRMING THE APPOINTMENT AND  
REAPPOINTMENT OF MEMBERS OF VARIOUS BOARDS,  
COMMISSIONS, AND TASK FORCES

BE IT RESOLVED that the City Council of the City of Hayward does hereby confirm the appointment and re-appointment of the following as members of the boards, commissions, and task forces so designated:

## APPOINTMENTS

Community Services Commission

Saira Guzman	(Succeeds Dania Frink)	September 2020
Rachel Zargar	(Succeeds Sai Manapragada)	September 2020

Downtown Business Improvement Area Advisory Board

Gustavo Barrios	(Succeeds Joseph Davis)	September 2020
Martha Grogg	(Succeeds Rui Li)	September 2020

Keep Hayward Clean and Green Task Force

Angela Andrews	(Succeeds Veronica Sandoval)	September 2018
Darrelle Demps	(Succeeds Jason Escareno)	September 2019
Linda Dobb	(Succeeds Kathy Super)	September 2019
Sharon Eva	(Succeeds Zuhail Bahaduri)	September 2019
Hasieb Lemar	(Succeeds Laurie Tafoya)	September 2019
Janet Livingston	(Succeeds Florine Banks)	September 2020
Allen Zargar	(Succeeds Radonna Foley-Scott)	September 2020

## REAPPOINTMENTS

Downtown Business Improvement Area Advisory Board

Alfredo Rodriguez Jr.	September 2020
Benjamin Schweng	September 2020

Keep Hayward Clean and Green Task Force

Blytha Bowers

September 2020

Lynne Clifton

September 2020

Suzanne Gayle

September 2020

Library Commission

Pedro Reynoso

September 2020

Planning Commission

Mariellen Faria

September 2020

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

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



## LIST OF APPOINTMENTS AND REAPPOINTMENTS

MEMBERS	STATUS	SUCCEEDS	TERM EXPIRES
Community Services Commission			
Saira Guzman	New Appointment	Sai Manapragada	09/30/2020
Rachel Zargar	New Appointment	Dania Frink	09/30/2020
Downtown Hayward Business Improvement Area Advisory Board			
Gustavo Barrios	New Appointment	Joseph Davis	09/30/2017
Martha Grogg	New Appointment	Rui Li	09/30/2017
KHC&G Task Force			
Angela Andrews	New Appointment	Veronica Sandoval	09/30/2018
Darrelle Demps	New Appointment	Jason Escareno	09/30/2019
Linda Dobb	New Appointment	Kathy Super	09/30/2019
Sharon Eva	New Appointment	Zuhal Bahaduri	09/30/2019
Hasieb Lemar	New Appointment	Laurie Tafoya	09/30/2019
Janet Livingston	New Appointment	Florine Banks	09/30/2020
Allen Zargar	New Appointment	Radonna Foley-Scott	09/30/2020
Blytha Bowers	Reappointment		09/30/2020
Lynne Clifton	Reappointment		09/30/2020
Suzanne Gayle	Reappointment		09/30/2020
Library			
Pedro Reynoso	Reappointment		09/30/2020
Planning Commission			
Mariellen Faria	Reappointment		09/30/2020



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**File #:** MIN 16-070

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Minutes of the Special City Council Meeting on July 12, 2016

**RECOMMENDATION**

That the City Council approves the minutes of the Special City Council Meeting on July 12, 2016.

**ATTACHMENTS**

Attachment I Draft Minutes of July 12, 2016



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF THE CITY OF  
HAYWARD  
Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, July 12, 2016, 7:00 p.m.**

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The Hayward Fire Department Honor Guard escorted re-elected Council Members Zermeño, Márquez, and Mendall to the Council Chambers dais; and Council Member-elect Salinas to his seat in the Council Chambers, pending installation.

The City Council meeting was called to order by Mayor Halliday at 7:00 p.m. A Color Guard Flag Ceremony was presented by the Hayward Police Department Honor Guard followed by the Pledge of Allegiance led by Mayor Halliday. Members of the Mt. Eden High School Choir sang the Star-Spangled Banner.

**ROLL CALL**

Present: COUNCIL MEMBERS Zermeño, Mendall, Jones, Peixoto, Lamnin, Márquez  
MAYOR Halliday  
Absent: None

**PUBLIC COMMENTS**

Mr. Edward Mora, on behalf of Congressman Eric Swalwell, presented a Certificate of Special Congressional Recognition to the City of Hayward in honor of receiving the National Civic League All-America City Award 2016.

Mr. Rocky Fernandez, on behalf of Senator Bob Wieckowski and Assembly Member Bill Quirk, presented the City of Hayward with a certificate from the State Legislature in recognition of being named an All-America City. Mr. Fernandez also presented Sophia Espinosa with a certificate in recognition of being awarded with an All-America City Youth Award 2016.

**PRESENTATION**

There was a special presentation delivered by Neighborhood Services Manager, David Korth, in recognition of Hayward being selected by the National Civic League for a 2016 All-America City Award and of Sophia Espinosa being selected as a recipient of the All-America City Youth Award.

**ELECTION**

Resolution Acknowledging Receipt of Canvass of the General Municipal Election Held June 7, 2016, and Declaring the Results Thereof (Report from City Clerk Lens) **LB 16-085**

Staff report submitted by City Clerk Lens, dated July 12, 2016, was filed.

City Clerk Lens provided a synopsis of the report.

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

Resolution 16-134, "Resolution Acknowledging Receipt of  
Canvass by the City Clerk of the General Municipal Election Held  
June 7, 2016, and Declaring the Results Thereof"

## **PRESENTATION**

A Certificate of Commendation was presented to Council Member Jones upon completion of his four-year term from 2012 to 2016 as a City of Hayward Council Member and in honor of his dedication and commitment to the community of Hayward. Mayor Halliday and Council Members, via a recorded video, offered words of appreciation for Council Member Jones in recognition of his leadership and commitment to the City of Hayward. City Manager David thanked Council Member Jones for his service on behalf of City staff.

## **INSTALLATION**

City Clerk Lens administered the Oath of Office to Re-Elected Council Members Francisco Zermeño, Elisa Márquez and Al Mendall and Council Member-Elect Mark Salinas.

Mayor Halliday congratulated the elected Council Members.

Council Members Francisco Zermeño, Elisa Márquez, Al Mendall and Mark Salinas acknowledged and offered words of appreciation for their families, mentors, colleagues, consultants, campaign committees, treasurers, volunteers, supporters and the residents of Hayward. The elected Council Members shared their vision for the next four years.

## **LEGISLATIVE BUSINESS**

Election of Mayor Pro Tempore **LB 16-086**

Staff report submitted by City Clerk Lens, dated July 12, 2016, was  
filed.

City Clerk Lens provided a synopsis of the report.

Council Member Mendall offered a motion to nominate Council Member Lamnin as Mayor Pro Tempore. Council Member Márquez seconded the motion.

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



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF THE CITY OF  
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777 B Street, Hayward, CA 94541  
Tuesday, July 12, 2016, 7:00 p.m.**

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Resolution 16-135, "Resolution Authorizing the Election of Mayor  
Pro Tempore of the City of Hayward for 2016-2017"

**CITY MANAGER'S COMMENTS**

There were none.

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

Council Member Márquez encouraged residents to apply for service on the City's Boards/Commissions/Committees/Task Forces and noted the deadline to apply was July 15, 2016.

Council Member Salinas announced free summer lunches and story time at three sites through August 4, 2016, hosted by the Hayward Public Library, Hayward Promise Neighborhood, and Hayward Unified School District.

Mayor Halliday noted that Council Members had summer interns through the District Attorney's Justice Academy Program and acknowledged those in attendance.

**ADJOURNMENT**

Mayor Halliday thanked Glad Tidings Church for hosting a "Service of Prayer and Concern for our Nation our Communities and our Youth" on July 11, 2016, in solidarity for the tragedy in Dallas and other communities experiencing suffering.

Mayor Halliday adjourned the meeting at 8:48 p.m. in honor of Antonio, Sophia, Jordan, Henry, Raymond, and George for receiving the National Civic League All-America City Award. Mayor Halliday invited everyone to attend a reception in the City Hall Rotunda.

**APPROVED:**

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Barbara Halliday  
Mayor, City of Hayward

**ATTEST:**

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Miriam Lens  
City Clerk, City of Hayward



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**File #:** MIN 16-071

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Minutes of the City Council Meeting on July 19, 2016

**RECOMMENDATION**

That the City Council approves the minutes of the City Council Meeting on July 19, 2016.

**ATTACHMENTS**

Attachment I Draft Minutes of July 19, 2016



**MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD**  
**Council Chambers**  
**777 B Street, Hayward, CA 94541**  
**Tuesday, July 19, 2016, 7:00 p.m.**

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The City Council meeting was called to order by Mayor Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Peixoto.

**ROLL CALL**

Present: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Peixoto, Lamnin,  
Salinas  
MAYOR Halliday  
Absent: None

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

There were no referrals or future agenda items.

**BOARDS AND COMMISSIONS**

The City Council confirmed the process for selecting applicants for the interviews on July 26, 2016, and also reviewed reappointment requests and reports created by staff liaisons of the Council's appointed bodies.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Lawson announced that the City Council convened in closed session at 5:00 p.m., and at the beginning of the session the Council, by unanimous vote, consented to add a litigation item pursuant to Government Code 54954 (b) (2) related to Consent Item No. 14, and the Council took no reportable action. Mr. Lawson noted that the Council did not discuss the two pending litigations listed on the agenda.

Mayor Halliday announced that the Council convened in closed session on Thursday, July 14, 2016 and also during tonight's closed session concerning public employment pursuant to Government Code 54957. Mayor Halliday announced that the Council had unanimously voted to appoint Assistant City Manager, Kelly McAdoo, as the new City Manager effective August 1, 2016, with a contract to be approved on September 13, 2016.

**PUBLIC COMMENTS**

Mr. Rich Essi requested additional funds to pay the Hayward Area Recreation and Park District (HARD) and to help subsidize the Zucchini Festival next year. It was noted that a meeting with the City and HARD would take place.

Ms. Asia Denman, District Attorney's Justice Academy intern, noted she had interned for Council Member Márquez and thanked the City for the opportunity.

Mr. Tom Silva, Rental Housing Association President, recommended that a task force be created to study a possible soft story building seismic retrofit ordinance.

Council Member Márquez, as one of the Trustees to the Alameda County Mosquito Abatement District Board, reported that there was a dead bird found in Fremont that was infected with the West Nile virus.

## CONSENT

Consent Item Nos. 3 and 8 were removed for discussion.

1. Minutes of the Special Joint City Council/Hayward Redevelopment Successor Agency/Hayward Housing Authority Meeting on June 28, 2016 **MIN 16-063**  
It was moved by Council/HRSA/HHA Member Mendall, seconded by Council/HRSA/HHA Member Márquez, and carried unanimously, to approve the minutes of the Special Joint City Council/Hayward Redevelopment Successor Agency/Hayward Housing Authority Meeting on June 28, 2016, with a minor correction.
2. Minutes of the City Council Meeting on July 5, 2016 **MIN 16-064**  
It was moved by Council Member Mendall, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the City Council Meeting on July 5, 2016.
3. Authorization to Renew a Rental Housing Subsidy Grant Agreement with Abode Services to Provide Rental Assistance to Emancipated Youth through "Project Independence" and to Utilize HOME Funds for that Purpose **CONS 16-254**

Staff report submitted by Housing Development Specialist Cortez, dated July 19, 2016, was filed.

Council Member Lamnin offered a motion with a modification to the Rental Housing Subsidy Grant Agreement from a two-year to a one-year contract; and to maintain the eight-unit level of apartments as opposed to the proposed six-unit level. The motion died for a lack of a second.

Council Member Zermeño offered a motion per staff recommendation and Council Member Peixoto seconded the motion.

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

Resolution 16-146, "Resolution Authorizing the Use of Home Funds for Rental Assistance to Emancipated Youth through Abode Services' Project Independence and Authorizing the City





**MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD**  
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Manager to Negotiate and Execute a Rental Housing Subsidy Grant Agreement”

4. Report and Special Assessment for Residential Rental Inspection Program Fees Past Due **CONS 16-379**

Staff report submitted by Code Enforcement Supervisor Espitia, dated July 19, 2016, was filed.

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

Resolution 16-136, “Resolution Confirming the Report and Special Assessment List Associated with Overdue Residential Rental Inspection Charges and Program Fees for Calendar Year 2015 and Through May 6, 2016”

5. Report and Assessment for Community Preservation Fees Past Due **CONS 16-382**

Staff report submitted by Code Enforcement Supervisor Espitia, dated July 19, 2016, was filed.

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

Resolution 16-137, “Resolution Confirming the Report and Special Assessment List Associated with Overdue Community Preservation Charges for the Calendar Year 2015 through May 6, 2016”

6. Report and Assessment for Delinquent Garbage Bills Incurred by Property Owners of Single-Family Households **CONS 16-383**

Staff report submitted by Sustainability Technician Yee, dated July 19, 2016, was filed.

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

Resolution 16-138, “Resolution Confirming the Report and Special Assessment List Associated with Delinquent Garbage Bills Incurred by Residential Property Owners with Cart Service”

7. Report and Special Assessment for Delinquent Sewer Bills and Water Bills Incurred by Property Owners **CONS 16-384**

Staff report submitted by Sustainability Technician Yee, dated July 19, 2016, was filed.

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

Resolution 16-139, "Resolution Confirming the Report and Special Assessment List Associated with Delinquent Water and Sewer Bills and Authorizing the Delinquent Charges to Become a Special Assessment Against the Properties if Not Paid by August 1, 2016"

8. Mission Boulevard and Blanche Street & Gading Road and Huntwood Way Intersections Safety Improvements: Award of Contract **CONS 16-388**

Staff report submitted by Assistant City Engineer Owusu, dated July 19, 2016, was filed.

Staff requested to remove the item from the agenda and continued it to a date uncertain.

9. Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Ground Lease with Meridian Aviation, Inc. **CONS 16-404**

Staff report submitted by Airport Manager McNeeley, dated July 19, 2016, was filed.

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

Resolution 16-140, "Resolution Authorizing the City Manager to Negotiate and Execute the First Amendment to the Commercial Aviation Site Lease Between the City of Hayward and Meridian Aviation, Inc."

10. Resolution of the City Council of the City of Hayward Authorizing the City Manager to Negotiate and Execute an Agreement Between the City of Hayward and Tyler Technologies Inc. to Continue the Standard Software Maintenance Support Services Agreement **CONS 16-407**

Staff report submitted by IT Manager Public Safety Roush, dated July 19, 2016, was filed.



**MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD**  
**Council Chambers**  
**777 B Street, Hayward, CA 94541**  
**Tuesday, July 19, 2016, 7:00 p.m.**

---

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

Resolution 16-141, "Resolution of the City Council of the City of Hayward Authorizing the City Manager to Negotiate and Execute an Agreement Between the City of Hayward and Tyler Technologies Inc. to Continue the Standard Software Maintenance Support Services Agreement"

11. Resolution of the City Council of the City Of Hayward Authorizing the City Manager to Negotiate and Execute a Change Order for the Network Infrastructure Replacement Project With LookingPoint, Inc. **CONS 16-410**

Staff report submitted by IT Manager-Infrastructure Saputo, dated July 19, 2016, was filed.

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

Resolution 16-142, "Resolution of the City Council of the City of Hayward Authorizing the City Manager to Negotiate and Execute a Change Order for the Network Infrastructure Replacement Project with LookingPoint, Inc."

12. Adoption of Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201600059 Relating to the Construction of Twenty Detached Single-Family Homes at 25906 Gading Road **CONS 16-413**

Staff report submitted by City Clerk Lens, dated July 19, 2016, was filed.

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

Ordinance 16-17, "An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201600059 Relating to the Construction of Twenty Detached Single-Family Homes at 25906 Gading Road"

13. Adoption of Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201601906 Relating to a Parcel of Land Located at 619 Shepherd Avenue **CONS 16-414**

Staff report submitted by City Clerk Lens, dated July 19, 2016, was filed.

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

Ordinance 16-18, "An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201601906 Relating to a Parcel of Land Located at 619 Shepherd Avenue"

14. Adoption of Ordinance Amending Section 2(l)(2) of the City of Hayward Residential Rent Stabilization Ordinance Clarifying the Exemption Applicable to Units Financed or Insured by a Federal, State or Local Agency **CONS 16-415**

Staff report submitted by City Clerk Lens, dated July 19, 2016, was filed.

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

Ordinance 16-19, "An Ordinance Amending Section 2(l) (2) of the City of Hayward Residential Rent Stabilization Ordinance Clarifying the Exemption Applicable to Units Financed or Insured by a Federal, State or Local Agency"

15. Approval of Final Map Tract 8226 - Brookwood Development -Associated with the Previously Approved Vesting Tentative Tract Map and Proposed Development of 18 Single Family Detached Homes on a 1.96 acre site at 24178 Saklan Avenue in the Mount Eden Area; Lenox Homes (Applicant), Ronald and Ray Depina (Owner) **CONS 16-416**

Staff report submitted by Contract Development Review Services Engineer Rei, dated July 19, 2016, was filed.

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

Resolution 16-143, "Resolution Approving Final Map for Tract 8226 and Authorizing the City Manager to Execute a Subdivision Agreement"



**MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD**  
**Council Chambers**  
**777 B Street, Hayward, CA 94541**  
**Tuesday, July 19, 2016, 7:00 p.m.**

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**16. Runway 10R-28L Rehabilitation Project at Hayward Executive Airport: Award of Contract CONS 16-420**

Staff report submitted by Assistant City Engineer Owusu, dated July 19, 2016, was filed.

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

Resolution 16-144, "Resolution Awarding the Construction Contract to DeSilva Gates Construction LP"

**17. Approval of a Second Amendment to the Exclusive Right to Negotiate Agreement with William Lyon Homes, Inc. for a Proposed Development Located in South Hayward near Dixon and Valle Vista Avenues CONS 16-424**

Staff report submitted by Management Analyst I Stefanski, dated July 19, 2016, was filed.

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

Resolution 16-145, "Resolution of the City Council of the City of Hayward Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Exclusive Right to Negotiate Agreement between the City of Hayward and William Lyon Homes, Inc. for a Proposed Development Located in South Hayward near Dixon and Valle Vista Avenues"

**WORK SESSION**

**18. Overview of Seismic Retrofits for Soft Story Buildings (Report from Development Services Director Rizk) WS 16-010**

Staff report submitted by Management Fellow James, dated July 19, 2016, was filed.

Development Services Director Rizk announced the report and introduced Management Fellow James who provided a synopsis of the report.

Discussion ensued among Council Members and City staff related to seismic retrofit for soft story buildings program, retrofit costs, implementation phases, performance objectives,

and outreach to the affected community. The Council supported the consideration of a task force/working group representing various stakeholders including affected rental tenants/owners who would vet the proposed soft story seismic retrofit program and address retrofit costs, retrofit performance objectives and other related items. The City Council was in general agreement with the staff's recommendations. Council Members offered suggestions for the program: a balanced approach where pass-through costs were capped and shared by rent-controlled and market rate housing; waive rental inspection fees for periods during and after construction; and consider streamlining the process to make compliance more effective.

## **PUBLIC HEARING**

19. Adopt Resolutions to Approve the Engineer's Report, Reconfirm Base Maximum Assessment Amount, Confirm the Assessment Diagram and Fiscal Assessment, Order the Levy and Collection of Fiscal Assessments, and Approve Funding Recommendations and Appropriate Special Revenue Funds for Maintenance District No. 1 - Storm Drainage Pumping Station and Storm Drain Conduit - Pacheco Way, Stratford Road and Ruus Lane - for Fiscal Year 2017 (Report from Development Services Director Rizk) **PH 16-068**

Staff report submitted by Contract Development Review Engineer Rei, dated July 19, 2016, was filed.

Development Services Director Rizk announced the report and introduced Contract Development Review Engineer Rei who provided a synopsis of the report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:25 p.m.

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

Resolution 16-147, "Resolution Approving the Engineer's Report, Reconfirming Base Maximum Assessment Amount, Confirming the Assessment Diagram and Fiscal Assessment, and Ordering Levy and Collection of Fiscal Assessments for Fiscal Year 2017 for Maintenance District No. 1: Storm Drainage Pumping Station and Storm Drain – Pacheco Way, Stratford Road, and Ruus Lane"

Resolution 16-148, "Resolution Approving Funding Recommendations and Appropriating the Special Revenue Funds for Maintenance District No. 1 for Fiscal Year 2017"



**MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD**  
**Council Chambers**  
**777 B Street, Hayward, CA 94541**  
**Tuesday, July 19, 2016, 7:00 p.m.**

- 
20. Adopt Resolutions to Approve the Engineer's Report, Confirm the Assessment Diagram and Assessment, Order the Levy and Collection of Assessments, and Approve Funding Recommendations, and Appropriate Special Revenue Funds for Maintenance District No. 2 - Eden Shores Storm Water Buffer and Facilities, for Fiscal Year 2017 (Report from Development Services Director Rizk) **PH 16-071**

Staff report submitted by Contract Development Review Engineer Rei, dated July 19, 2016, was filed.

Development Services Director Rizk announced the report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:28 p.m.

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

Resolution 16-149, "Resolution Approving the Engineer's Report, Confirming the Assessment Diagram and Fiscal Assessment, and Ordering Levy and Collection of Assessments for Fiscal Year 2017 for Maintenance District No. 2: Eden Shores Water Buffer Zone and Pre-Treatment Pond"

Resolution 16-150, "Resolution Approving Funding Recommendations and Appropriating the Special Revenue Funds for Maintenance District No. 2 for Fiscal Year 2017"

21. Adopt Resolutions to Approve the Engineer's Report, Reconfirm Maximum Base Assessments, Confirm the Assessment Diagrams and Fiscal Assessments, Order the Levy and Collection of Fiscal Assessments; and Approve Funding Recommendations and Appropriate Special Revenue Funds for Consolidated Landscaping and Lighting District No. 96-1, Zones 1 through 13, for Fiscal Year 2017 (Report from Development Services Director Rizk) **PH 16-072**

Staff report submitted by Contract Development Review Engineer Rei, dated July 19, 2016, was filed.

Contract Development Review Engineer Rei provided a synopsis of the report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:32 p.m.

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

Resolution 16-151, "Resolution Approving the Engineer's Report, Reconfirming Base Maximum Assessments, Confirming the Assessment Diagrams and Fiscal Assessments, and Ordering Levy and Collection of Fiscal Assessments for Fiscal Year 2017 for the Landscaping and Lighting District No. 96-1, Zones 1-13"

Resolution 16-152, "Resolution Approving Funding Recommendations and Appropriating Special Revenue Funds for Consolidated Landscaping and Lighting District No. 96-1, Zones 1 through 13 for Fiscal Year 2017"

Council Member Márquez disclosed she needed to recuse herself from participating on Hearing Item No. 22 due to a potentially perceived conflict of interest related to her family's business being in close proximity to the proposed property and she left the Council Chambers at approximately 8:35 p.m.

22. Approval of an Application for and Authorization for the City Manager to Accept an Application for a Mills Act Historical Property Contract for the Property Located at 22654 Main Street (Report from Assistant City Manager McAdoo) **PH 16-075**

Staff report submitted by Management Analyst I Stefanski, dated July 19, 2016, was filed.

Assistant City Manager McAdoo announced the report and introduced Management Analyst I Stefanski who provided a synopsis of the report.

Discussion ensued among Council Members and City staff related to the Mills Act Historical Property Contract; property tax; improvements to the subject property and its historical integrity; completion date; and relocation of businesses during renovation.

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:47 p.m.

Council Member Mendall offered a motion per staff recommendation and Council Member Zermeño seconded the motion.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously with Council Member Márquez absent, to adopt the following:

Resolution 16-153, "Resolution of the City Council of the City of Hayward Approving the Application for a Mills Act Historical Property Contract and Authorizing the City Manager to Negotiate and Execute the Mills Act Historical Property Contract Between the City of Hayward and B Street Apartment Group, LP. For the





**MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD**  
**Council Chambers**  
**777 B Street, Hayward, CA 94541**  
**Tuesday, July 19, 2016, 7:00 p.m.**

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Property Located at 22654 Main Street”

Council Member Márquez returned to the dais at 8:50 p.m.

**LEGISLATIVE BUSINESS**

**23. General Plan Implementation Annual Report (Report from Development Services Director Rizk) LB 16-083**

Staff report submitted by Planning Manager Buizer, dated July 19, 2016, was filed.

Development Services Director Rizk announced the report and introduced Planning Manager Buizer who provided a synopsis of the report.

Discussion ensued among Council Members and City staff related to the 2040 General Plan and programs related to: EDL-2, Education Partnership; EDL-5 Public School Marketing Campaign; H-16 Universal Design Principles; H-14 Child Care Services and Facilities; HAZ-6 Airport Noise Monitoring and Reporting; and HAZ-1 Seismic and Geologic Safety Standards.

Council Members accepted the staff report and offered suggestions: prepare some simple graphics or metrics to show how the City is doing in meeting timeframes for program compliance and offer opportunity for the public to provide feedback; upon completion of a program, summarize its findings and make them available to the public via the City's website; review best practices of the Hayward Promise Neighborhood to guide education-related goals; consolidate similar goal oriented programs; consider submitting the annual report related to HAZ-6 to the Council Airport Committee; have an opportunity to review the General Plan after the Council's retreat in the fall; prioritize CS-9 Police and Fire Impact fees and HAZ-1 Seismic and Geologic Safety Standards; and consider codifying universal design principles for developments.

There being no public comments, Mayor Halliday opened and closed the public hearing at 9:18 p.m.

It was noted that the Council did not need to take action on the item.

**24. Submission of Cannabis Tax Measure to Hayward Voters on November 8, 2016 (Report will be available Friday afternoon on July 15, 2016) LB 16-087**

Staff report submitted by City Attorney Lawson, dated July 19, 2016, was filed.

City Attorney Lawson and City Manager David provided a synopsis of the report.

Discussion ensued among Council Members and City staff related to the estimated election cost; proposed tax measure; language in Proposition 64; findings for calling a special election; projected revenue; and language in the ballot question.

Mayor Halliday opened the public hearing at 9:50 p.m.

Ms. Denise Martellacci, Hayward resident, did not support spending funds for a special election in November; instead, she suggested considering medical cannabis dispensaries or regulated outlets first and consider the tax measure in 2018.

Mayor Halliday closed the public hearing at 9:57 p.m.

Discussion ensued among Council Members and City staff regarding the ballot question.

Council Member Zermeño stated that it was likely that Proposition 64 would pass in November and in an effort to retain local control he supported submitting a ballot measure to the voters.

Council Member Zermeño offered a motion per staff's recommendation. Council Member Mendall seconded the motion.

Council Member Mendall expressed he did not see a benefit to making the local control dependent on the passage of Proposition 64, and offered an amendment to modify the ballot question by replacing "... and Proposition 64 is enacted on November 8, 2016..." with "... and recreational or medical cannabis is legal in the State of California" or similar language. Council Member Zermeno was amenable to the change.

City Manager David offered the following modification to the ballot question, "... business-to-business sales, if the State of California legalizes and the City permits such sales with such taxes to be over and above any other state or local taxes."

Council Member Lamnin supported the motion and offered a further amendment to the question language by modifying it to indicate something such as "... business-to-business sales in addition to taxes imposed by the City of Hayward if the City voters permit such sales..."

There was general agreement to give direction to staff to modify the ballot question per the suggestions offered by Council Members and staff; and bring the ballot question back for Council's review at the next Council meeting.

It was moved by Council Member Zermeño, seconded by Council Member Mendall, and carried unanimously, to approve staff's recommendation with direction to staff to modify the language in the ballot question per the suggestions offered by Council Members and City staff, and bring the ballot question back for Council's review at the Council meeting on July 26, 2016.



**MINUTES OF THE CITY COUNCIL MEETING OF THE CITY OF HAYWARD**  
**Council Chambers**  
**777 B Street, Hayward, CA 94541**  
**Tuesday, July 19, 2016, 7:00 p.m.**

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**CITY MANAGER'S COMMENTS**

There were none.

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

Council Member Salinas reported that the Let's Do Lunch and Breakfast Too program, for the seventh summer, had served 57,898 breakfasts and lunches to Hayward kids.

Council Member Zermeno announced the Keep Hayward Clean & Green Task Force Clean-Up event on July 23, 2016, at 1099 E Street.

Mayor Halliday announced the Council would hold interviews for the Council's appointed bodies during a special meeting on July 26, 2016.

**ADJOURNMENT**

Mayor Halliday adjourned the meeting at 10:27 p.m., in memory of Mary Nunez. Ms. Mary Nunez was the wife of Maintenance Services employee Randy Nunez and younger sister of Hayward Police Officer Donnie Muniz. Mary Nunez was also related to retired Hayward Police Department Sergeant Teddy Muniz and his wife, current Hayward Police Officers Association Secretary Delia Muniz. Mayor Halliday asked staff to find a suitable place to plant a tree in memory of Mary Nunez.

**APPROVED:**

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Barbara Halliday  
Mayor, City of Hayward

**ATTEST:**

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Miriam Lens  
City Clerk, City of Hayward



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** MIN 16-072

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Minutes of the Special City Council Meeting on July 26, 2016

**RECOMMENDATION**

That the City Council approves the minutes of the Special City Council Meeting on July 26, 2016.

**ATTACHMENTS**

Attachment I Draft Minutes of July 26, 2016



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
OF THE CITY OF HAYWARD  
777 B Street, Hayward, CA 94541  
Tuesday, July 26, 2016**

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**SPECIAL CITY COUNCIL MEETING  
BOARD, COMMISSIONS, COMMITTEE AND TASK FORCE INTERVIEWS  
Conference Room 2B – 4:00 PM**

**CALL TO ORDER**

**ROLL CALL:** Council Member Zermeño absent

**PUBLIC COMMENTS**

There were none.

**COUNCIL ACTION**

1. Board, Commissions, Committee and Task Force Interviews **RPT 16-086**  
The City Council interviewed ten applicants.

2. Selection of New Members  
The City Council selected members to be confirmed on September 13, 2016.

The City Council adjourned to a Special City Council Meeting.

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

**Via Teleconference Location  
Hotel Camino Real  
Avenida Vallarta, No. 5005  
Colonia Chapalita  
Guadalajara, Jalisco 45040, México**

The City Council meeting was called to order by Mayor Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Salinas.

Mayor Halliday noted that pursuant to Government Code Section 54953 (b) (4), the meeting included a teleconference from Guadalajara, Jalisco. Council Member Zermeño participated via teleconference.

## ROLL CALL

Present: COUNCIL MEMBERS Márquez, Mendall, Peixoto, Lamnin, Salinas  
COUNCIL MEMBER Zermeño (Via Teleconference)  
MAYOR Halliday  
Absent: None

## PUBLIC COMMENTS

Mr. Alfredo Rodriguez, Vintage Alley business owner, invited all to the 3<sup>rd</sup> Annual Vintage Alley Car Show - a Tribute to Our Veterans, on September 10, 2016.

Mr. Kim Huggett, President of the Hayward Chamber of Commerce, announced the last Downtown Street Parties on August 18, 2016. Mr. Huggett thanked City Manager David for her contributions to the City; and congratulated Assistant City Manager McAdoo on her appointment as the new City Manager.

Mr. Charlie Peters, with Clean Air Performance Professionals, spoke about an article from the Washington Post entitled "California Sues EPA Over Emissions Rules."

## LEGISLATIVE BUSINESS

At the request of Mayor Halliday, the City Council unanimously agreed to move Legislative Item No. 2 before Item No. 1.

1. Adoption of a Resolution Appointing Kelly McAdoo City Manager of the City of Hayward Effective August 1, 2016 (Report from Mayor Halliday) **LB 16-088**

Staff report submitted by Mayor Halliday, dated July 26, 2016, was filed.

Mayor Halliday provided a synopsis of the report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 7:36 p.m.

Council Member Mendall offered a motion per the Mayor's recommendation and Council Member Márquez seconded the motion.

Council Member Salinas noted the process was vetted by the Council Appointed Officers Committee and congratulated all in the appointment process.

It was moved by Council Member Mendall, seconded by Council Member Márquez, and carried unanimously, by the following roll call to adopt the following:



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
OF THE CITY OF HAYWARD  
777 B Street, Hayward, CA 94541  
Tuesday, July 26, 2016**

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Resolution 16-155, "Resolution Approving the Appointment of Kelly McAdoo as City Manager of the City of Hayward Effective August 1, 2016"

AYES: Council Members Zermeño, Márquez, Mendall,  
Peixoto, Lamnin, Salinas  
MAYOR Halliday  
NOES: None  
ABSENT: None  
ABSTAINED: None

2. Submission of Cannabis Tax Measure to Hayward Voters on November 8, 2016 (Report from City Attorney Lawson) **LB 16-090**

Staff report submitted by City Attorney Lawson, dated July 26, 2016, was filed.

City Manager David provided a synopsis of the report.

Mayor Halliday opened the public hearing at 7:21 p.m.

Mr. Karl Schultz, Hayward resident, spoke against the enactment of a cultivation tax for marijuana leaves and flowers.

Mayor Halliday closed the public hearing at 7:24 p.m.

Council Member Mendall offered a motion per staff's recommendation noting he concurred with the changes made to the ballot question.

Council Member Lamnin seconded the motion indicating support for clear ballot language and for information to be available on the City's website.

Council Member Márquez supported the motion and offered an amendment to the motion to include that the Council wanted to file an argument in favor of the ballot measure.

Council Members Mendall and Lamnin concurred with the amendment.

Mayor Halliday noted that the Council's action sought an effort to preserve the right to keep local control.

City Manager David suggested modifying the ballot question so that the word “City” would be replaced with “City of Hayward”; and noted that the amendment would not affect the word count as “City of Hayward” was counted as one word. Council Member Mendall and Lamnin were amenable to modifying the ballot question.

It was moved by Council Member Mendall, seconded by Council Member Lamnin, and carried unanimously, by the following roll call vote to adopt the resolution with an amendment to the ballot question by replacing the word “City” with “City of Hayward”:

Resolution 16-154, “Resolution Calling a Special Municipal Election in the City of Hayward for the Purpose of Submitting to the Voters a Measure Relating to the Enactment of a Cannabis Transaction and Use Tax; Setting Forth the Statement of the Measure to be Voted Upon; Fixing the Date and Manner of Holding the Election; and Requesting the Board of Supervisors of Alameda County to Provide for the Consolidation of the Special Municipal Election with the Statewide Presidential Election to be Held on November 8, 2016, and to Provide Election Services”

AYES: Council Members Zermeño, Márquez, Mendall,  
Peixoto, Lamnin, Salinas  
MAYOR Halliday  
NOES: None  
ABSENT: None  
ABSTAINED: None

### **CITY MANAGER’S COMMENTS**

There were none.

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

Council Member Márquez asked staff to present to the City Council plans for promotional opportunities to highlight the All-America City 2016 recognition.

Council Member Mendall announced the Ellie Mae Classic at TPC Stonebrae was taking place from July 28 to July 31, 2016, and he invited all to attend.

Mayor Halliday announced the City Council will be in recess for the month of August and will reconvene on September 13, 2016.

### **ADJOURNMENT**

Mayor Halliday adjourned the meeting at 7:42 p.m., in honor of City Manager Fran David and in recognition for her years of service to the City of Hayward.





**MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
OF THE CITY OF HAYWARD  
777 B Street, Hayward, CA 94541  
Tuesday, July 26, 2016**

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**APPROVED:**

\_\_\_\_\_  
Barbara Halliday  
Mayor, City of Hayward

**ATTEST:**

\_\_\_\_\_  
Miriam Lens  
City Clerk, City of Hayward



# CITY OF HAYWARD

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**File #:** CONS 16-417

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**DATE:** September 13, 2016

**TO:** Hayward Geologic Hazard Abatement District (GHAD) Board of Directors

**FROM:** Development Services Director

**SUBJECT**

Approval of Resolution Authorizing Approval of Scopes of Work with:

1. Engeo Incorporated to Serve as Hayward GHAD Manager,
2. Patricia Curtin of Wendel, Rosen, Black and Dean to Serve as Hayward GHAD Clerk/Legal Counsel,  
and
3. Watermark Asset Management Incorporated to Serve as Hayward GHAD Treasurer.

**RECOMMENDATION**

That the GHAD Board of Directors adopts the attached resolution (Attachment II) approving scopes of work for the GHAD Manager, GHAD Clerk/Legal Counsel, and GHAD Treasurer.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	GHAD Board Resolution
Attachment III	Scope of Work for Engeo Incorporated
Attachment IV	Scope of Work for Wendel, Rosen, Black and Dean
Attachment V	Scope of Work for Watermark Asset
Attachment VI	GHAD Board Resolution 16-001



DATE: September 13, 2016

TO: Hayward Geologic Hazard Abatement District (GHAD) Board of Directors

FROM: Development Services Director

SUBJECT

Approval of Resolution Authorizing Approval of Scopes of Work for:

1. Engeo Incorporated to Serve as Hayward GHAD Manager,
2. Patricia Curtin of Wendel, Rosen, Black and Dean to Serve as Hayward GHAD Clerk/Legal Counsel, and
3. Watermark Asset Management Incorporated to Serve as Hayward GHAD Treasurer.

#### RECOMMENDATION

That the GHAD Board of Directors adopts the attached resolution (Attachment II) approving scopes of work for the GHAD Manager, GHAD Clerk/Legal Counsel, and GHAD Treasurer.

#### SUMMARY

Staff is recommending adoption of the attached resolution to enable future required actions by the Hayward GHAD, as supported by qualified and experienced consultants.

#### BACKGROUND

On November 17, 2015, the Hayward City Council approved Resolution No. 15-224, committing the City of Hayward to be subject to the GHAD law and directed the City Clerk to forward a copy of the resolution to the State Controller.

On January 26, 2016, a work session on GHADs was held before the City Council, during which City staff and consultant Eric Harrell of ENGEIO Incorporated provided an overview of GHADs and answered questions from the City Council. One key point that was discussed at the work session is that a preferred practice is to have as many GHAD staff as possible be hired as consultants rather than City employees. This arrangement provides the maximum separation of financial responsibility between the GHAD and the City of Hayward as financial issues arise in the future. The extent of the City of Hayward's liability increases in proportion to the amount of control and involvement it has with the GHAD. From a legal perspective, it is advisable to minimize the City of Hayward's control and involvement at the GHAD staff level.

On February 2, 2016, in response to a petition filed by the owner of the La Vista development, and in accordance with Public Resources Code Sections 26552 and 26554, the Hayward City Council approved Resolution No. 16-016, which scheduled a public hearing on March 1, 2016 to consider formation of the Hayward GHAD.

On March 1, 2016 the Hayward City Council adopted Resolution No. 16-030 approving and ordering formation of the Hayward GHAD and appointed itself to act as the Hayward GHAD Board of Directors.

On May 17, 2016, the Hayward GHAD Board of Directors adopted Resolution No. 16-001 (Attachment VI), appointing the Mayor as the Chair of the Hayward GHAD; Engco Incorporated to serve as the GHAD Manager; Patricia Curtin of Wendel, Rosen, Black and Dean to serve as the GHAD Clerk/Legal Counsel; and Watermark Asset Management Incorporated to serve as the GHAD Treasurer. The GHAD Board further directed staff to prepare contracts with each of these firms for consideration and approval by the Hayward GHAD Board of Directors. Scopes of Work have been prepared and are attached in lieu of contracts, which are more appropriate for GHADs.

## DISCUSSION

The attached proposed scopes of work (Attachments III through V) are recommended by staff in order to complete the process of engaging the services of Engco, Wendel Rosen Black and Dean, and Watermark Asset Management, as directed by the GHAD Board of Directors at the May 17, 2016 meeting.

The proposed term for all three Scopes is three years. This timeframe is intended to ensure that the GHAD Manager, Clerk/Legal Counsel and Treasurer are in place during the time that the developer is responsible for the monitoring, maintenance and ownership of the improvements that the GHAD will ultimately be responsible for managing. It is anticipated that somewhere during this three-year period, but at least one year after the first building permit is issued, the developer will request to transfer the monitoring, maintenance and ownership of the improvements to the Hayward GHAD.

Prior to the transfer taking place, the GHAD Manager, Clerk/Legal Counsel and Treasurer will be actively involved in preparing contracting policies, investment policies, and other procedural updates for consideration and approval by the GHAD Board. Collectively, these policies and procedures will provide the administrative structure to effectively manage GHAD business matters.

Once the transfer of responsibility from the developer to the Hayward GHAD is completed, the Hayward GHAD will then assume monitoring and maintenance responsibility for the improvements. Securing the services of the GHAD Manager, Clerk/Legal Counsel and Treasurer during this transition will ensure that the Hayward GHAD's interests will continue to be managed effectively.

Following the transfer of monitoring, maintenance and ownership to the Hayward GHAD, the GHAD officers will assume the ongoing management of the Hayward GHAD. In this role, the GHAD officers will be providing regular updates to the GHAD Board, preparing yearly budgets for GHAD Board consideration, managing the ongoing monitoring and maintenance of GHAD infrastructure, and administering all contracts and consultants needed to achieve GHAD objectives.

## ECONOMIC AND FISCAL IMPACTS

There is no direct impact to the City of Hayward or the Hayward GHAD Board of Directors relative to the approval of these three Scopes at this time. All costs of administering the monitoring and maintenance of all improvements will continue to be the responsibility of the developer until such time as the transfer of responsibility for monitoring, maintenance and ownership is accepted by the Hayward GHAD Board of Directors. This transfer cannot occur by law any earlier than one year following the issuance of the first Building Permit for the homes within the La Vista Development by the City of Hayward.

Initially and up until one year after the first building permit is issued, the cost for the GHAD, including costs for the GHAD officers, is borne by the project developer. Once the transfer of responsibility for monitoring, maintenance and ownership is accepted by the Hayward GHAD Board of Directors, the responsibility for the payment of services of the GHAD Manager, GHAD Clerk/Legal Counsel and GHAD Treasurer will become the responsibility of the Hayward GHAD Board of Directors. At that time, the assessments paid by all properties within the GHAD boundaries will be used to pay all Hayward GHAD expenses, including the cost associated with these three GHAD Officers.

## SUSTAINABILITY FEATURES

There are no such features associated with this action.

## PUBLIC CONTACT

The public has had, and continues to have, the opportunity to comment on all GHAD actions at every GHAD Board of Directors meeting. The owner of the La Vista property was notified of this meeting.

## NEXT STEPS

The following are anticipated future actions/steps:

Adopt the Hayward GHAD Plan of Control	October 18, 2016
Approve Engineers Report for GHAD Assessment	October 18, 2016
Approve the Intent to Order Assessment	October 18, 2016
Approve the Canvas of Votes – GHAD Assessment	December 6, 2016
Order the Levy and Collection of Assessments	December 6, 2016

Record the Notice of Assessment and Assessment Diagram	December 2016
Receive first Update by the Hayward GHAD Board	Prior to transfer of responsibility from developer to GHAD (Fall 2017 at the earliest)
Consider adoption of proposed investment and contracting guidelines/policies by the GHAD Board	Prior to transfer of responsibility from developer to GHAD (Fall 2017 at the earliest)
Receive the offer to transfer the monitoring, maintenance and ownership from developer to Hayward GHAD	Minimum of one year after issuance of first building permit (Fall 2017 at the earliest)
Accept the transfer of monitoring, maintenance and ownership from developer to Hayward GHAD	Minimum of one year after issuance of first building permit (Fall 2017 at the earliest)
Approve the initial Hayward GHAD budget	After acceptance of monitoring, maintenance and ownership responsibilities
Future Updates to Hayward GHAD Board on GHAD activities	Yearly
Approval of future Hayward GHAD budgets	Yearly
Miscellaneous GHAD Resolutions and Actions	As necessary

Prepared by: Peter Rei, PE, PLS Contract Development Services Engineer, in cooperation with the GHAD Officers

Recommended by: David Rizk, AICP, Development Services Director

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

---

Kelly McAdoo, City Manager

HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT  
BOARD OF DIRECTORS

RESOLUTION NO. 16-

Introduced by Board Member \_\_\_\_\_

RESOLUTION APPROVING SCOPES OF WORK WITH ENGEO  
INCORPORATED; WENDEL, ROSEN, BLACK AND DEAN; AND  
WATERMARK ASSET MANAGEMENT FOR GEOLOGIC HAZARD  
ABATEMENT DISTRICT SERVICES

WHEREAS, the Hayward City Council approved Resolution No.15-224 on November 17, 2015, committing the City of Hayward to be bound by Geologic Hazard Abatement Law; and

WHEREAS, the Hayward City Council heard a presentation on January 26, 2016, which involved discussion of options for staffing of Geologic Hazard Abatement District (GHAD) senior staff positions and, at that meeting, expressed support for providing the maximum separation between the City of Hayward and the Hayward Geologic Hazard Abatement District; and

WHEREAS, in response to a petition filed by the owner of the La Vista development, and in accordance with Public Resource Code Sections 16552 and 26554, the Hayward City Council approved Resolution No. 16-016 which scheduled a Public Hearing for March 1, 2016 to consider formation of the Hayward Geologic Hazard Abatement District; and

WHEREAS, the Hayward City Council approved Resolution No. 16-030 on March 1, 2016 ordering the formation of the Hayward Geologic Hazard Abatement District and appointing itself to act as the Hayward Geologic Hazard Abatement District Board of Directors; and

WHEREAS, the Hayward Geologic Hazard Abatement District Board of Directors approved Resolution No. 16-001 on May 17, 2016, appointing the Mayor as the Chair of the Hayward Geologic Hazard Abatement District; Engeo Incorporated to act as the Geologic Hazard Abatement District Manager; Wendel, Rosen, Black and Dean to act as the Geologic Hazard Abatement District Clerk/Legal Counsel; and Watermark Asset Management to act as the Geologic Hazard Abatement District Treasurer ("GHAD OFFICERS");

WHEREAS, all three consultants are specially trained, experienced, and competent to perform the special services that will be required, and;



WHEREAS, the scopes of work for the GHAD Officers are attached as Exhibit  
A.

NOW, THEREFORE, BE IT RESOLVED BY THE HAYWARD GEOLOGIC HAZARD  
ABATEMENT DISTRICT BOARD OF DIRECTORS approves the attached scopes of services  
for the GHAD Officers

IN HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ATTEST: \_\_\_\_\_

Clerk of the Hayward Geologic Hazard Abatement District Board of Directors

APPROVED AS TO FORM:

\_\_\_\_\_  
Legal Counsel of the Hayward Geologic Hazard Abatement District  
Board of Directors

**SCOPE OF SERVICES FOR ENGEIO INCORPORATED SERVING AS THE  
HAYWARD GHAD MANAGER  
(August 2016)**

**I. GENERAL.**

A geologic hazard abatement district (“GHAD”) is an independent, state-level public agency that oversees geologic hazard prevention, mitigation, abatement, and control. A “geologic hazard” is broadly defined as an actual or threatened landslide, land subsidence, soil erosion, earthquake, fault movement or any other natural or unnatural movement of land or earth.

On November 17, 2015, the City Council of the City of Hayward adopted Resolution No. 15-224 declaring its intent to be subject to the laws governing geologic hazard abatement districts (“GHAD Law”). Consistent with GHAD Law, on March 1, 2016, the City Council adopted Resolution No. 16-030 approving the formation of the Hayward Geologic Hazard Abatement District (“Hayward GHAD”), appointing itself to serve as the GHAD Board of Directors and stating that the GHAD will be responsible for hiring its own staff. On May 17, 2016, the GHAD Board adopted Resolution No. 16-01 appointing the Chairperson, Clerk/Legal Counsel, Treasurer and Manager for the Hayward GHAD.

As stated in GHAD Law, a geologic hazard abatement district is a political subdivision of the state; it is not an agency or instrumentality of a local agency. As such, the Hayward GHAD is an independent district separate and distinct from the City of Hayward. Consistent with Resolution No. 16-030 and GHAD Law, this scope of services is prepared for the GHAD Manager.

**II. GHAD MANAGER ROLE.**

The GHAD Manager will be responsible for the day-to-day management of the Hayward Geologic Hazard Abatement District (“GHAD” or “District”) in accordance with applicable State and Federal statutes, the GHAD Plan of Control, and policies and guidelines adopted by the Hayward GHAD Board of Directors (“GHAD Board”). The GHAD Manager will attend GHAD Board meetings as necessary to conduct District business.

The GHAD may retain other technical consultants, contractors, and/or other vendors as may be required to evaluate, review, design, construct or maintain GHAD facilities and improvements in accordance with the GHAD Plan of Control and GHAD Board approved budget. The GHAD Manager shall secure these services on behalf of the District in accordance with the GHAD’s procedures for awarding of contracts for GHAD repair, maintenance, and improvement projects and for professional and support services.

The GHAD Manager will consult with the GHAD Clerk, GHAD Treasurer, and GHAD Legal Counsel as required. All items to be submitted to the GHAD Board for information and/or action shall be submitted through the GHAD Clerk.

On or about the time the GHAD acquires monitoring and maintenance responsibilities as described in the transfer section of the adopted Plan of Control, the GHAD Manager shall develop and maintain a computerized accounting and bookkeeping system sufficient to allow District costs and expenditures to be applied to individual projects and/or programs. The GHAD Manager shall reconcile the accounting and bookkeeping records maintained by the GHAD Manager to those maintained by the GHAD Treasurer.

Manager shall provide the following to the Board of Directors:

1. In accordance with the schedule established by the County Tax Collector, Manager shall prepare (or cause to be prepared) an annual update to the GHAD assessment roll.
2. The GHAD Manager will assist in preparation of yearly updates (either by written communication or at a GHAD Board meeting) explaining the operations of the GHAD including but not limited to (a) the tasks that have been undertaken by GHAD staff in accordance with the Plan of Control, (b) the number of units in the GHAD, (c) the current assessment amount being levied, and (d) the balance in the GHAD account.
3. On or about the time the GHAD acquires monitoring and maintenance responsibilities as described in the transfer section of the adopted Plan of Control, and prior to April 30 of every subsequent year, GHAD Manager shall develop and forward a proposed budget to the GHAD Board for their consideration detailing how the District budget funds are to be expended during the next fiscal year.
4. On or about the time the GHAD acquires monitoring and maintenance responsibilities as described in the transfer section of the adopted Plan of Control, Manager shall develop and submit Quarterly Year-To-Date Expense Reports comparing actual expenditures to the approved budgets.
5. On or about the time the GHAD acquires monitoring and maintenance responsibilities as described in the transfer section of the adopted Plan of Control, Manager shall maintain an Annual Work Program and Monthly Incident Log. The Annual Work Program is to include major repair projects, significant incidents, and special projects. The Monthly Incident Log will identify active incidents under review and/or construction by the District and/or District's consultants, as well as all active GHAD construction projects. The incident log will indicate the status of active projects and identify the individual to be contacted with questions on any particular incident and/or project.

Manager shall fully cooperate with consultants (or others) retained by the Board of Directors to perform Management Audits called for or authorized by the Board of Directors.

Except in the case of an emergency and in accordance with the GHAD's policies on contracting for professional services, Manager is prohibited from performing work on GHAD Major Repair projects or improvements with an estimated value in excess of the approved budget.

Manager shall perform routine geotechnical analyses and slope stability studies for maintenance and long-term preventive programs, as needed.

As necessary, Manager shall update and make amendments to the Plan of Control, subject to GHAD Board approval.

Hourly rates for the GHAD Manager services are provided on the attached fee schedule and are subject to periodic adjustment. The developer/property owner shall be responsible for paying all fees and costs up and until an application from the developer or property owner for transfer of GHAD Improvements (as defined in the Plan of Control) is filed with the GHAD Manager. Thereafter, the GHAD shall be responsible for payment of the GHAD Manager services.





GEOTECHNICAL  
ENVIRONMENTAL  
WATER RESOURCES  
CONSTRUCTION SERVICES

## PREFERRED CLIENT FEE SCHEDULE PROFESSIONAL SERVICES

Effective April 2016

President.....	\$305.00 per hour
Principal Engineer/Geologist.....	\$250.00 per hour
Associate Engineer/Geologist.....	\$225.00 per hour
Senior Engineer/Geologist.....	\$200.00 per hour
Project Engineer/Geologist/Manager.....	\$180.00 per hour
Environmental Scientist.....	\$175.00 per hour
Staff Engineer/Geologist.....	\$160.00 per hour
Assistant Engineer.....	\$135.00 per hour
Construction Services Manager.....	\$158.00 per hour
Senior Field Representative II.....	\$143.00 per hour**/**
Senior Field Representative I.....	\$128.00 per hour**/**
Field Representative.....	\$118.00 per hour**/**
Environmental Technician.....	\$125.00 per hour**/**
Senior Laboratory Technician.....	\$145.00 per hour
Laboratory Technician.....	\$130.00 per hour
CAD/GIS Specialist.....	\$128.00 per hour
Network Administrator.....	\$195.00 per hour
Project Assistant.....	\$113.00 per hour

\* Two-hour minimum portal to portal. Travel time, pick-up and delivery will be billed based on normal hourly rates, portal to portal.

\* **OVERTIME RATES:** Rates increased by factor of 1.5 for all hours worked in excess of eight (8) Monday through Friday, and the first eight (8) hours worked on Saturday. Rates increased by factor of 2.0 for all hours worked in excess of twelve (12) Monday through Friday, all hours worked in excess of eight (8) on Saturday and all hours worked on Sunday and holidays.

\*\* For Prevailing Wage projects, increase the hourly rate by \$15.

\*\*\* Rates increased by factor of 1.25 for night shift hours (hours commencing after 4:00 p.m. or before 4:00 a.m.); rates increased by factor of 1.875 (an additional factor of 1.5) for all night shift hours in excess of eight (8).

### ADDITIONAL SERVICES OFFERED

In addition to our core services of geotechnical, hydrologic and environmental engineering, including construction-phase testing and observation, ENGEO provides clients with services for establishment and management of Geologic Hazard Abatement Districts (GHAD) and for Entitlement and Permitting Support (EPS). For more information about these services and associated pricing, please contact ENGEO at (925) 866-9000.

### OTHER FEES

- Equipment and materials will be charged in addition to the above hourly rates.
- Outside Consultants, Subcontracted Services and Equipment Rental .....Cost plus 20%
- Deposition, Mediation, Arbitration, or Court Appearance (Minimum Charge) .....\$2,000.00 half day, \$4,000.00 full day

### TERMS

Invoices will be submitted at completion of work or at approximately four week intervals and are due and payable upon receipt. Statements will be issued at monthly intervals. Charges not paid within 30 days of invoice date will accrue a late charge at a rate of 1.5 percent per month. In the event it becomes necessary to commence suit to collect amount due, Client agrees to pay attorney's fees and costs, as the court may deem reasonable until amount is paid. Fees will be applicable for one year from the effective date above; thereafter, fees will be adjusted annually. Our fees will be billed using an invoice format produced by a standardized accounting software package. A more customized itemization of charges and backup data will be provided upon Client's requests, but at additional fees. Final reports may be withheld until outstanding invoices are paid in full.

Many risks potentially affect ENGEO by virtue of entering into this agreement to perform services on behalf of client. A principal risk is the potential for human error by ENGEO. For client to obtain the benefit of a fee that includes a nominal allowance for dealing with our liability, client agree to limit ENGEO's liability to Client and all other parties for claims arising out of our performance of the services described in the agreement. The aggregate liability will not exceed \$50,000 (or ENGEO's fee, whichever is greater, but not more than \$1,000,000) for professional acts, errors, or omissions, including attorney's fees and costs that may be awarded to the prevailing party and client agrees to indemnify and hold harmless ENGEO from and against all liabilities in excess of the monetary limit established above.

## EQUIPMENT AND MATERIALS CHARGES

Description	Cost Per Unit (\$)	Unit
Air Content Meter	7.00	hour
Bailers (Disposable)	8.00	each
Concrete Crack Monitor	20.00	each
Coring Machine	25.00	hour
Electronic Water Level Indicator	5.00	hour
Engineering Analysis Software	20.00	hour
Equipment Transport(er)	100.00	hour
Exploration Equipment (Percussion Penetrometer)	50.00	hour
Floor Flatness/Floor Level Equipment	20.00	hour
Generator	15.00	hour
GIS Website Portal Maintenance	100.00	month
GPS Hand Held (Garmin)	5.00	hour
GPS Survey Grade (Trimble)	90.00	hour
Hand Auger and Soil Sampler	15.00	hour
Hydraulic Pull-Test Equipment	15.00	hour
Interface Probe	2.00	hour
Magnetic Particle Test Equipment	8.00	hour
Moisture Content Test Equipment	6.00	hour
Multi-Parameter Water Meter	15.00	hour
pH Meter/Turbidity Meter	10.00	hour
Photo Ionization Detector	15.00	hour
R Meter (Pachometer)	15.00	hour
Sampling Tubes	10.00	each
Sand Cone Equipment and Material	5.00	hour
Schmidt Hammer	20.00	hour
Skidmore Wilhelm Bolt Tension Calib.	10.00	hour
Slope Inclinator/Settlement Indicator/VW Readout	50.00	hour
Torque Wrench	12.00	hour
Transfer Pump	3.00	hour
Ultrasonic Equipment	25.00	hour
Vapor Emission Test Kit	25.00	kit
Vector Conversion	60.00	conversion
Vehicle, mileage, nuclear gauge, misc. equipment, wireless communication	22.00	hour
Vehicle, mileage, misc. equipment, wireless communication	13.00	hour
Water Sampling Pumps	20.00	hour
Bridge Toll	actual	actual
Mileage	.78	mile
Parking	actual	actual
Trailer	15.00	hour
AutoCAD, Terramodel, GIS, Drone	20.00	hour
Photocopies Black & White	0.25	each
Photocopies Color 11 x 17	1.50	each
Photocopies Color 8½ x 11	1.00	each
Plot - Black & White	3.00	square foot
Plot - Color	4.00	square foot
Postage	actual	actual
Scan - Black & White	1.50	each
Scan - Color	3.75	each
Telephone	0.50	minute

**SCOPE OF SERVICES FOR WATERMARK ASSET MANAGEMENT, INC  
SERVING AS HAYWARD GHAD TREASURER  
(August 2016)**

**I. GENERAL.**

A geologic hazard abatement district (“GHAD”) is an independent, state-level public agency that oversees geologic hazard prevention, mitigation, abatement and control. A “geologic hazard” is broadly defined as an actual or threatened landslide, land subsidence, soil erosion, earthquake, fault movement or any other natural or unnatural movement of land or earth.

On November 17, 2015, the City Council of the City of Hayward adopted Resolution No. 15-224 declaring its intent to be subject to the laws governing geologic hazard abatement districts (“GHAD Law”). Consistent with GHAD Law, on March 1, 2016, the City Council adopted Resolution No. 16-030 approving the formation of the Hayward Geologic Hazard Abatement District (“Hayward GHAD”), appointing itself to serve as the GHAD Board of Directors and stating that the GHAD will be responsible for hiring its own staff. On May 17, 2016, the GHAD Board adopted Resolution No. 16-01 appointing the Chairperson, Clerk/Legal Counsel, Treasurer and Manager for the Hayward GHAD.

As stated in GHAD Law, a geologic hazard abatement district is a political subdivision of the state; it is not an agency or instrumentality of a local agency. As such, the Hayward GHAD is an independent district separate and distinct from the City of Hayward. Consistent with Resolution No. 16-030 and GHAD Law, this scope of services is prepared for the GHAD Treasurer.

**II. ROLES OF SERVICES FOR GHAD TREASURER.**

GHADs can be funded through several sources but the most common source is through supplemental property assessments commonly included on a property tax bill. The ongoing revenue stream, combined with reserves when available, funds current operations and reserve accumulation.

The Treasurer invests GHAD funds for day-to-day operational expenses, unexpected expenses beyond those budgeted for the current year, and for long-term reserves with an emphasis on a real return commensurate with the GHAD’s long-range strategic plan.

In its role as Treasurer, Watermark Asset Management, Inc. provides the following services:

- **Investment Policy Statement (IPS)**

The Treasurer is responsible for the design and implementation of an Investment Policy Statement for the Hayward GHAD. Annually, the Treasurer and GHAD Manager will review the IPS prior to submitting to the GHAD Board for final review and approval.

- **Investment of GHAD revenues and reserve funds**

The Treasurer is responsible for the prudent management of the GHAD portfolio in order to achieve the investment objective of safety, liquidity and return. Through diversification of investments the Treasurer manages interest rate, market risk, liquidity risk and credit risk to meet the GHAD's investment objectives.

- **Safekeeping and Custody**

To protect against potential fraud and embezzlement, the assets of the GHAD shall be secured through third-party custody and safekeeping procedures.

The Treasurer shall maintain a list of financial institutions authorized to provide custodial services. Assets are held directly with the custodian and provide independent verification of assets through monthly institutional account statements.

The GHAD Manager delegates limited power of attorney to the Treasurer to make investment decisions on behalf of the GHAD.

The Treasurer is responsible for the coordination, review and monitoring of GHAD cash disbursements. Through a dual control verification process, the Treasurer verifies disbursement requests from the GHAD Manager. GHAD Managers may submit check requests for approved vendors only. The Treasurer coordinates and verifies disbursements from the custodian to the approved vendors.

- **Reporting**

While there is no legislative requirement for monthly or quarterly investment activity reporting, the Custodian will provide monthly institutional investment statements to the Treasurer and GHAD Manager for account reconciliation.

Quarterly the Treasurer shall submit investment reports to the GHAD Manager

Annually the Treasurer will provide the GHAD Manager with comprehensive investment activity and performance for inclusion in the fiscal year-end report and new annual budget.

- **Annual Budget**

The GHAD Manager is responsible for preparing the annual budget with coordination from the Treasurer on asset balances, investment performance and cash flow.

- **Treasurer Investment Management Fee**

The GHAD investment account will be assessed an annual advisory fee of .25% (25 Basis Points) on account balances. The fee is billed in arrears, prorated quarterly and based on the value of the managed account on the last day of the period/quarter. The Treasurer reserves the right to charge hourly fees for additional accounting work.



**GHAD Treasurer  
Fee Schedule  
Effective September, 2016**

The GHAD investment account will be assessed an annual advisory fee of .25% (25 Basis Points) on account balances. The fee is billed in arrears, prorated quarterly and based on the value of the managed account on the last day of the period/quarter.

The Treasurer reserves the right to charge hourly fees for additional accounting work.

Investment Principal ..... \$250.00 per hour

Account Manager ..... \$150.00 per hour

Accounting Administration .....\$65.00 per hour

**SCOPE OF SERVICES FOR WENDEL ROSEN BLACK AND DEAN LLP  
SERVING AS HAYWARD GHAD CLERK/LEGAL COUNSEL  
(August 2016)**

**I. INTRODUCTION.**

A geological hazard abatement district (“GHAD”) is an independent, state-level public agency that oversees geologic hazard prevention, mitigation, abatement and control. A “geologic hazard” is broadly defined as an actual or threatened landslide, land subsidence, soil erosion, earthquake, fault movement or any other natural or unnatural movement of land or earth.

On November 17, 2015, the City Council of the City of Hayward adopted Resolution No. 15-224 declaring its intent to be subject to the laws governing geologic hazard abatement districts (“GHAD Law”). Consistent with GHAD Law, on March 1, 2016, the City Council adopted Resolution No. 16-030 approving the formation of the Hayward Geological Hazard Abatement District (“Hayward GHAD”), appointing itself to serve as the GHAD Board of Directors and stating that the GHAD will be responsible for hiring its own staff. On May 17, 2016, the GHAD Board adopted Resolution No. 16-001 appointing the Chairperson, Clerk/Legal Counsel, Treasurer and Manager for the Hayward GHAD.

As stated in GHAD Law, a geologic hazard abatement district is a political subdivision of the state; it is not an agency or instrumentality of a local agency. As such, the Hayward GHAD is an independent district separate and distinct from the City of Hayward. Consistent with Resolution No. 16-030 and GHAD Law, this scope of services is prepared for the GHAD Clerk/Legal Counsel.

**II. SCOPE OF SERVICES FOR GHAD CLERK/LEGAL COUNSEL.**

The GHAD Clerk/Legal Counsel shall serve as the GHAD Clerk and Legal Counsel. The Clerk roles include securing GHAD Board meeting dates, creating agendas and distributing all necessary notices of public meetings, documents and staff reports to the GHAD Board and as required, to all interested parties. The GHAD Clerk shall keep records of the proceedings of the meetings and is responsible for maintaining the official records of GHAD proceedings. The GHAD is subject to the provisions of the Ralph M. Brown Act and the Clerk is responsible for clerical roles under the Brown Act.

The Legal Counsel role includes providing legal advice to the Hayward GHAD in accordance with GHAD Law, the GHAD Plan of Control, and policies and guidelines that may be adopted by the Hayward GHAD Board. In this role, the Attorney is also responsible for advising the GHAD Board, if it so desires, in the creation of its own rules, regulations and policies in accordance with GHAD Law. Such rules, regulations and policies may relate to awarding of contracts for services, the application of prevailing wages, conflict of interest provisions, filing claims with the GHAD, and investment criteria. The Attorney shall review all official documents (i.e., plan of control and any amendments thereto, engineer’s report and any amendments thereto, contracts, agreement, claims, reports, resolutions) presented to the GHAD Board.

Additional the Legal counsel will consultate with the GHAD Manager and GHAD Treasurer in assuring the plan of control is implemented and the GHAD Board is provided with all necessary documents to make informed decisions.

In working with the GHAD Manager and Treasurer, the GHAD Clerk/Legal Counsel shall provide the following to the GHAD Board:

1. Prior to the GHAD improvements being transferred to the GHAD in accordance with the applicable plan of control, an annual update summarizing the number of homes subject to the GHAD assessment, the amount collected from the assessment and any other information available on GHAD activities.

2. On or about the time the GHAD accepts the GHAD improvements and acquires monitoring and maintenance responsibilities as described in the transfer section of the adopted plan of control, and prior to April 30 of every subsequent year, the following shall be provided:

- A. A proposed budget explaining how the GHAD budget funds are to be expended.

- B. An update (either by written communication or at a GHAD Board meeting) explaining the operations of the GHAD including but not limited to (a) the tasks that have been undertaken by GHAD staff in accordance with the plan of control, (b) the number of units in the GHAD, (c) the current assessment amount being levied, and (d) the balance in the GHAD account.

The GHAD Legal Counsel only advises the GHAD Board, GHAD Manager, GHAD Treasurer and other GHAD staff or officers that may be appointed by the GHAD Board in the future. The Attorney will attend all GHAD Board meetings.

Hourly rate for the GHAD Clerk/Legal Counsel is \$480/hour and is subject to annual adjustments. The developer/property owner shall be responsible for paying all fees and costs up and until an application from the developer/property owner for transfer of GHAD Improvements (to be defined in the Plan of Control) is filed with the GHAD Manager. Thereafter, the GHAD shall be responsible for the payment of the GHAD Clerk/Legal Counsel services.

HAYWARD GEOLOGIC HAZARD BOARD OF DIRECTORS

RESOLUTION NO. 16-01

Introduced by Board Member Zermefio

RESOLUTION APPOINTING THE CHAIRPERSON,  
CLERK/LEGAL COUNSEL, TREASURER, AND  
MANAGER OF THE HAYWARD GEOLOGIC HAZARD  
ABATEMENT DISTRICT (GHAD)

WHEREAS, on March 1, 2016, the City Council adopted Resolution 16-030, approving and ordering formation of the Hayward Geologic Abatement District (GHAD) as described in the GHAD Plan of Control for the La Vista subdivision (Tract 7620) and appointed itself to act as the GHAD Board of Directors (the "Board"); and

WHEREAS, a Board member should be appointed to serve as the Chairperson;  
and

WHEREAS, the GHAD Board of Directors, to allow for the position of Chairperson to be continuously occupied, desires that the Mayor should serve as the Chairperson of the GHAD Board of Directors. If the Mayor is not available to serve as the Chairperson of the GHAD Board of Directors, the Mayor Pro Tempore should serve in this position; and

WHEREAS, the Hayward City Council, provided in Resolution 16-030 adopted on March 1, 2016, that the GHAD will be responsible for hiring its own staff (or contracting with parties to perform such staff services), including all workers who will undertake operation, maintenance, replacement, repair, and other activities of the GHAD, and no City employees shall perform such services for GHAD facilities and improvements unless the GHAD and the City enter into an agreement that makes clear that City employees are acting as GHAD employees when providing services for the GHAD; and

WHEREAS, pursuant to Public Resources Code Section 26584, the Board of Directors must appoint a Clerk; and

WHEREAS, the GHAD Board of Directors desires to appoint Patricia Curtin to act as both the Hayward GHAD Clerk and Hayward GHAD Legal Counsel; and

WHEREAS, pursuant to Public Resources Code Section 26585, the Board of Directors must appoint a Treasurer; and

WHEREAS, the GHAD Board of Directors desires to appoint Watermark Asset Management Incorporated to act as the Hayward GHAD Treasurer based on its experience and credentials in providing such services to other GHADs; and

WHEREAS, pursuant to Public Resources Code Section 26586, the Board of Directors must appoint other officers of the GHAD and delegate such powers of the District as may be appropriate in the circumstances; and

WHEREAS, the Board of Directors desires to appoint ENGEO Incorporated to act as the Hayward GHAD Manager based on its experience and credentials in providing such services to other GHADS.

NOW, THEREFORE, BE IT RESOLVED that the Hayward GHAD Board of Directors hereby orders that:

1. The Mayor or Mayor Pro Tempore, if the Mayor is not available to serve, is appointed to act as the Chairperson of the Hayward GHAD Board.
2. Patricia Curtin is appointed as both the Hayward GHAD Clerk and the Hayward GHAD Legal Counsel.
3. Watermark Asset Management is appointed as the Hayward GHAD Treasurer.
4. The Hayward GHAD Board of Directors further authorizes the GHAD Treasurer to collect, hold, invest, appropriate and expend GHAD funds as necessary for carrying out the GHAD operations in accordance with budgets approved by the GHAD Board.
5. Engeo Incorporated is appointed as the Hayward GHAD Manager.
6. The Hayward GHAD Board of Directors further authorizes the GHAD Manager to be responsible for the day-to-day management of the Hayward GHAD in accordance with all applicable state and federal statutes, the GHAD Plans of Control, and all Board policies, guidelines, and budgets adopted by the Hayward GHAD Board.
7. The recitals are incorporated herein by this reference.
8. This Resolution shall become effective immediately upon its passage and adoption.

IN COUNCIL, HAYWARD, CALIFORNIA May 17, 2016

ADOPTED BY THE FOLLOWING VOTE:

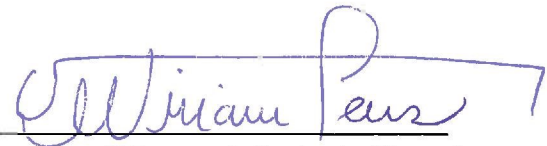
AYES: BOARD MEMBERS: Zermefio, Mendall, Jones, Peixoto, Lamnin, Márquez  
CHAIR: Halliday

NOES: BOARD MEMBERS: None

ABSTAIN: BOARD MEMBERS: None

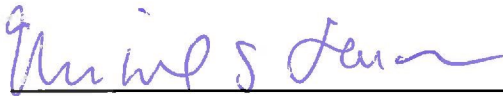
ABSENT: BOARD MEMBERS: None

ATTEST:



Secretary of Hayward Geologic Hazard  
Board of Directors of the City of Hayward

APPROVED AS TO FORM:



General Counsel of the Hayward Geologic Hazard  
Board of the City of Hayward



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** CONS 16-441

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT**

Approval of Final Map 8242 Associated with the Previously Approved Vesting Tentative Map and Proposed Development of Twenty-Four Single-Family Homes on a 1.9-Acre Site at 23645 and 23653 Eden Avenue in the Mount Eden Area; KB Home, South Bay (Applicant/Owner)

**RECOMMENDATION**

That the City Council adopts the attached Resolution (Attachment II), approving the Final Map 8242 and finding that it is in substantial conformance with the approved Vesting Tentative Tract Map 8242 and the Conditions of Approval thereof, and authorizing the City Manager to take other administrative actions and execute a Subdivision Agreement and such other documents as are appropriate to effectuate the required improvements for the development at 23645 and 23653 Eden Avenue in the Mount Eden Area.

**ATTACHMENTS:**

Attachment I Staff Report  
Attachment II Resolution  
Attachment III Vicinity Map  
Attachment IV Site Map



DATE: September 13, 2016

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT

Approval of Final Map 8242 Associated with the Previously Approved Vesting Tentative Map and Development of Twenty-Four Single-Family Homes on a 1.9-Acre Site at 23645 and 23653 Eden Avenue in the Mount Eden Area; KB Home, South Bay (Applicant/Owner)

#### RECOMMENDATION

That the City Council adopts the attached Resolution (Attachment II), approving the Final Map 8242 and finding that it is in substantial conformance with the approved Vesting Tentative Tract Map 8242 and the Conditions of Approval thereof, and authorizing the City Manager to take other administrative actions and execute a Subdivision Agreement and such other documents as are appropriate to effectuate the required improvements for the development at 23645 and 23653 Eden Avenue in the Mount Eden Area.

#### SUMMARY

The City Engineer has determined that Final Map 8242 is consistent with the Approved Vesting Tentative Tract Map 8242 and staff is therefore recommending approval of the final map.

#### BACKGROUND

Per State law, Tentative Tract and Final maps are required for all subdivisions creating five or more parcels. A Tentative Tract Map is required to ensure that any proposed development complies with the Subdivision Map Act, the California Environmental Quality Act, the City Subdivision Ordinance, City Zoning Ordinance (including Planned Development provisions), and Building regulations, the Hayward General Plan and Neighborhood Plans, and the site specific requirements of the Planning, Public Works, Fire, and Police Departments.

After the Tentative Map and Precise Plan are approved, the developer submits the Final Subdivision Map and Improvement Plans for review and approval by the City Engineer (and subsequent recordation of the Final Map after Council review and approval) before proceeding with obtaining building permits for the construction of improvements. The developer is required to file a Tentative Map and Final map so that the twenty-four (24) lots can be sold individually. A Vesting Tentative Map is the same as a Tentative Map except a



Vesting Map locks in certain development standards in effect at the time the Vesting Map is approved.

On October 1, 2015, the Planning Commission recommended approval of a zone change from Medium Density Residential to Planned Development, a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and Vesting Tentative Tract Map 8242.

On October 27, 2015, relying on the Mitigated Negative Declaration prepared for the development application, the Council approved the Vesting Tentative Tract Map and Planned Development Rezone applications in order to subdivide the property and construct 24 single-family detached homes.

In February of 2016, the applicant submitted preliminary Improvement Plans and the Final Map to the City for review and approval.

## DISCUSSION

Tract 8242 is located on a 1.9-acre parcel at 23645 and 23653 Eden Avenue, south of Winton Avenue and west of Clawiter Avenue in the Mount Eden area (see Attachment II - Location Map). The project proposes 24 new single-family detached homes located within an existing single-family residential neighborhood.

The subdivision Improvement Plans and Final Map were reviewed by the City Engineer and were found to be in substantial compliance with the Vesting Tentative Map, and in conformance with the Subdivision Map Act and Hayward's subdivision regulations. There have not been any significant changes to the Final Map as compared to the Tentative Tract Map that the City Council approved in October of 2015.

The City Council's approval of the Final Map shall not become effective until and unless the Developer enters into a Subdivision Agreement and posts bonds with the City for the construction of improvements and other obligations required per conditions of approval of the Tentative Tract Map.

The development of Tract 8242 was previously reviewed by the Council on October 27, 2015. At that time, the Council adopted a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting program for the project, consistent with the requirements of the California Environmental Quality Act (CEQA).

## ECONOMIC AND FISCAL IMPACTS

The Final Map approval is consistent with the approved project and the Final Map, by itself, will not have a fiscal or economic impact.

## SUSTAINABILITY FEATURES

There are no sustainability features associated with this particular action; however, there were sustainability features incorporated into the project that has been approved.

## PUBLIC CONTACT

A public hearing is not required for the filing of the Final Map for Tract 8242. Public hearings were already conducted as part of the approval of Vesting Tentative Map application for Tract 8242.

## NEXT STEPS

Assuming the City Council approves the final map, the applicant will have the final map recorded, obtain construction permits and commence the construction of improvements shown on the approved Improvement Plans.

Prepared by: Peter Rei, PE, PLS Contract Development Review Engineer

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

RESOLUTION APPROVING FINAL MAP FOR TRACT 8242  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE A  
SUBDIVISION AGREEMENT

WHEREAS, Vesting Tentative Tract Map No. 8242 was approved by the City Council on October 27, 2015, and the Final Map for Tract 8242 has been presented to the City Council of the City of Hayward for development of twenty-four (24) single-family detached homes, located on a parcel totaling 1.9 acres, generally located at 23645 and 23653 Eden Avenue in the Mount Eden area; and

WHEREAS, the Director of Public Works reviewed the Final Map and found it to be in substantial compliance with the approved vesting tentative tract map, the Subdivision Map Act and the City of Hayward regulations.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby find that the Final Map for Tract 8242 is in substantial compliance with the approved Vesting Tentative Tract Map and does hereby approve Final Tract Map 8242, subject to the subdivider entering into a Subdivision Agreement for the construction of improvements and other obligations, as required by the conditions of approval of the Vesting Tentative Tract Map for Tract 8242, and that the approval of the Final Map for Tract 8242 shall not be effective until and unless such agreement is entered into.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized for and on behalf of the City of Hayward to negotiate and execute a subdivision agreement in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA,

ADOPTED BY THE FOLLOWING VOTE:

AYES:           COUNCIL MEMBERS:  
                          MAYOR:

NOES:           COUNCIL MEMBERS:

ABSTAIN:       COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

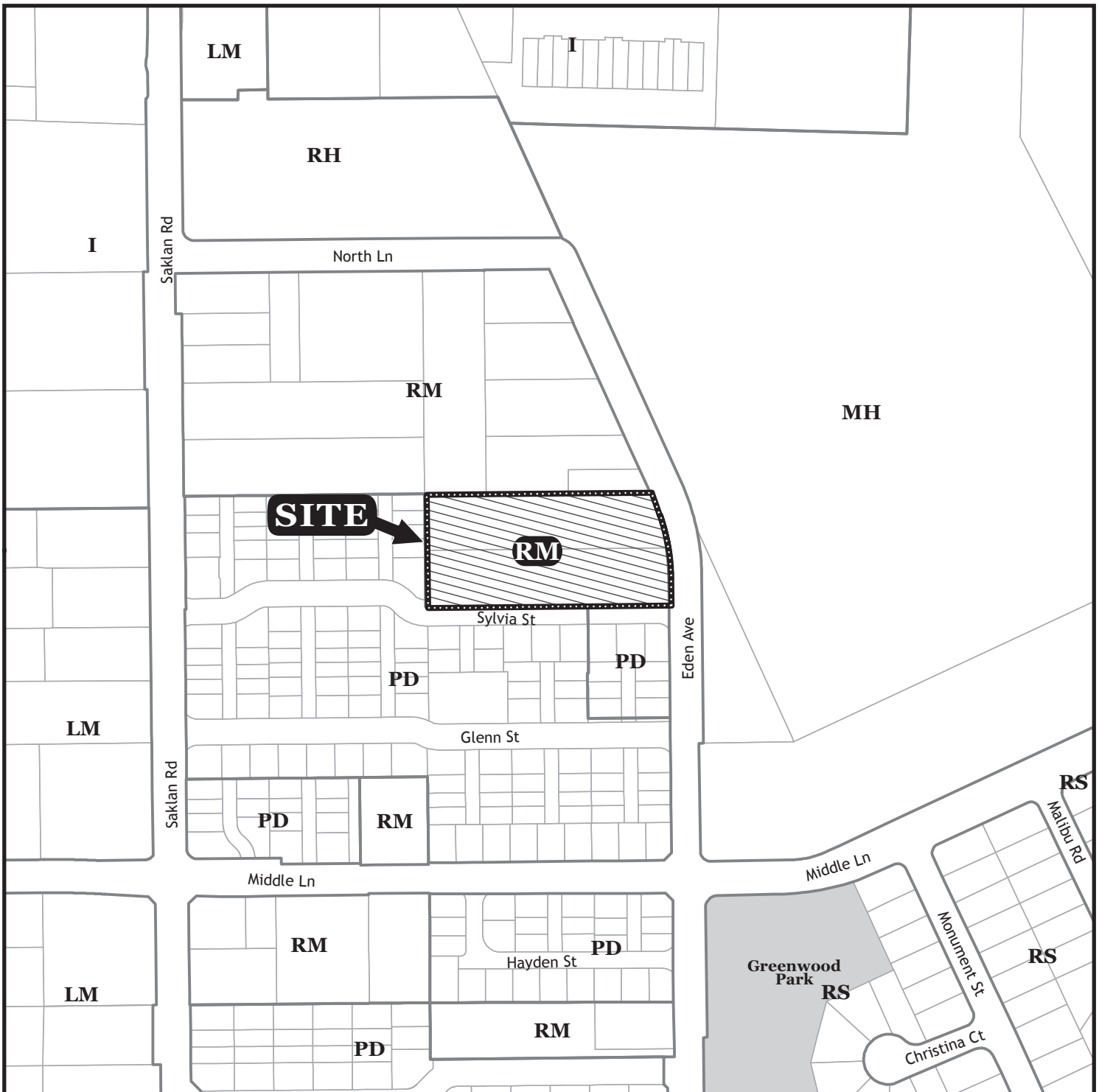
ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

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



# Area & Zoning Map



**201600802**

Address:  
**23645 Eden Ave**

Applicant:

Owner:  
**KB Home, South Bay**

0 100 200 300 Feet

## Zoning Classifications

### RESIDENTIAL

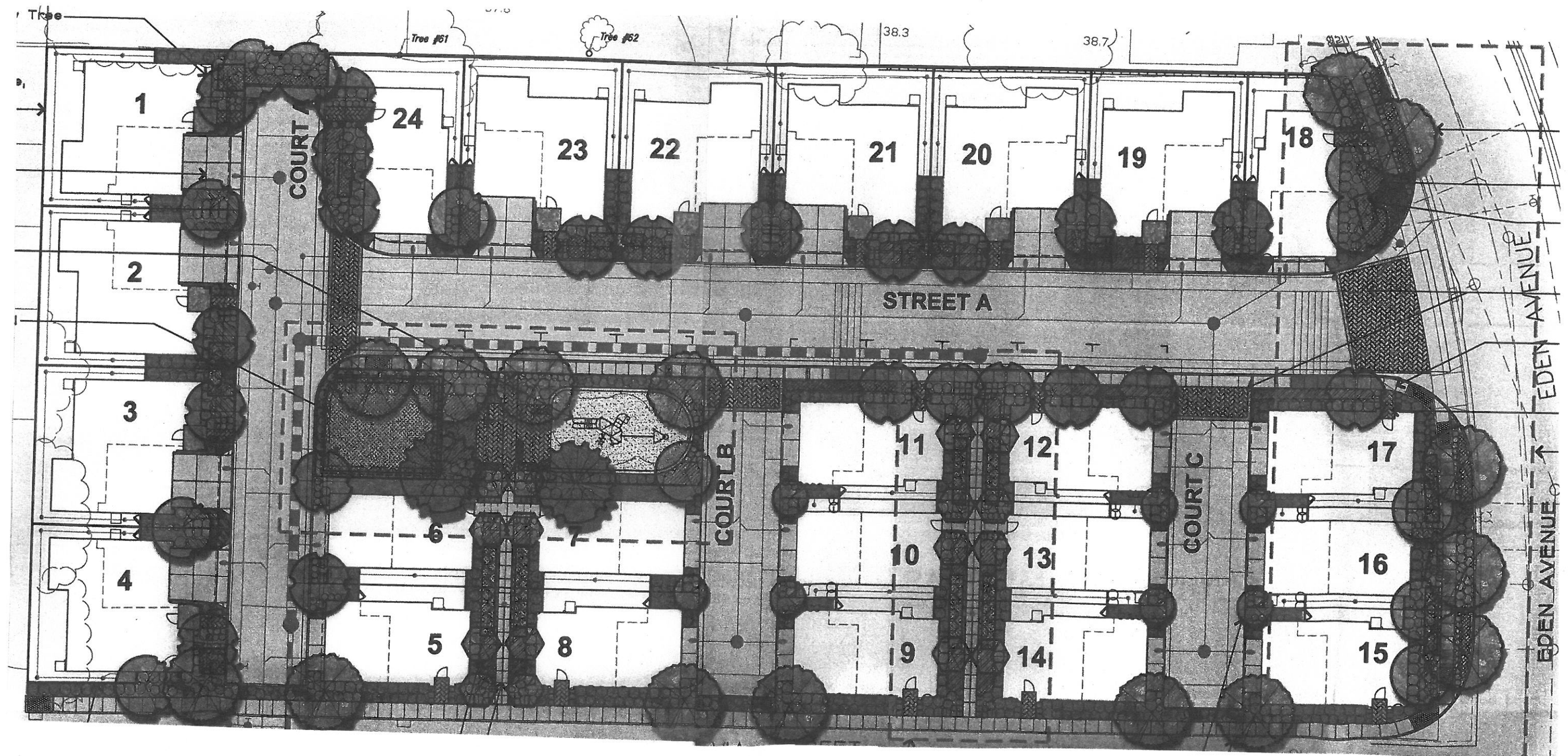
- MH Mobile Home Park
- RH High Density Residential, min lot size 1250 sqft
- RM Medium Density Residential, min lot size 2500 sqft
- RS Single Family Residential, min lot size 5000 sqft

### INDUSTRIAL

- I Industrial
- LM Light Manufacturing

### OTHER

- PD Planned Development





# CITY OF HAYWARD

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**File #:** CONS 16-483

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT**

Mission Boulevard/Blanche Street and Gading Road/Huntwood Way Intersections Safety Improvements: Rejection of Bids, Approval of Revised Plans and Specifications and Call for Bids

**RECOMMENDATION**

That Council adopts the attached resolution (Attachment II) rejecting all bids and approving the revised plans and specifications for the Mission Boulevard and Blanche Street Intersection, and Gading Road and Huntwood Way Intersection Safety Improvements; and calling for new bids to be received on October 11, 2016.

**ATTACHMENTS**

Attachment I Staff Report  
Attachment II Resolution  
Attachment III Project Location Map  
Attachment IV Bid Summary





DATE: September 13, 2016

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Mission Boulevard/Blanche Street and Gading Road/Huntwood Way Intersections Safety Improvements: Rejection of Bids, Approval of Revised Plans and Specifications and Call for Bids

## BACKGROUND

A City-wide traffic safety improvement study identified the need for improvements at the intersections of Mission Boulevard/Blanche Street as well as the Gading Road/Huntwood Way intersection. At the intersection of Mission Boulevard/Blanche Street, the pedestrian crosswalk is unprotected across four lanes of traffic on Mission Boulevard. This crosswalk is used by school children going to and from Conley-Caraballo High School. At the intersection of Gading Road/Huntwood Way, there is an unsafe left turn movement from Huntwood Way into Gading Road, and an unprotected left turn movement from Gading Road into Huntwood Way.

In early 2013, staff applied for federal Highway Safety Improvement Program (HSIP) funding and received \$396,000 to improve the above mentioned intersections. The project location map is referenced in Attachment III.

## DISCUSSION

Collision data demonstrated a pattern of high-collision locations centered around the above noted intersections. Broadside, sideswipe, rear-end, and vehicle-pedestrian collisions were the most common types of accidents. Expressed community concerns and requests for improvements were consistent with the collision data. This improvement project will mitigate the identified safety issues.

The improvements will include the following:

- (1) Mission Boulevard & Blanche Street – Installation of a pedestrian-activated hybrid beacon, high-intensity crosswalk (HAWK) signal, and updating the crosswalk striping at this intersection. This will bring greater driver awareness to the presence of pedestrians. This intersection meets the warrants for a full traffic signal system. The future Mission Boulevard Corridor (Phase 2) Improvements project will further modify this intersection and install a full traffic signal system.



(2) Gading Road & Huntwood Way – Installation of a new traffic signal system at Gading Road/Huntwood Way will upgrade an existing stop controlled intersection to a fully signalized intersection with protected left-turns.

On June 14, 2016, four bids were received for the project. W. Bradley Electric, Inc. of Novato, California, submitted the low bid of \$688,268, which was 56% above the engineer's estimate of \$440,000. Columbia Electric, Inc. of San Leandro, California submitted the second low bid in the amount of \$700,000, which was 59% above the engineer's estimate. The four bids ranged from \$668,268 to \$823,565.

Staff met with the design consultant to discuss the excessively high bid results over the engineer's estimate, and concluded that the following were the reasons:

1. The rising economy and numerous projects out for bid provided contractors with many project choices.
2. Required spare parts for the traffic control system; and
3. The engineer's estimate underestimated mobilization, traffic control, and key components of the project such as the video detection and coordination systems.

Because federal funds are involved, the review process involves both Caltrans and the Federal Highway Administration (FHWA). Caltrans, after reviewing the original bid documents, found an irregularity in which a proprietary video detection system was called out as part of the bid package. Although it was a minor piece of the total bid package, it could have resulted in FHWA rejecting the entire grant, thus potentially forfeiting the Federal reimbursement of \$440,000. Therefore, the possibility that the project reimbursements might be in jeopardy had we proceeded also played a crucial role in staff's decision to recommend rejecting the initial bid. As it stands, the inclusion of proprietary equipment must receive a sign-off by Caltrans prior to its inclusion in a bid package. Unfortunately, this oversight was not brought to our attention until after the bids were received.

Given the above requirements, staff believes that the City's interest will be best served by rejecting all bids, making revisions to the design to lower costs, and re-advertising the project for new bids. For example, eliminating the requirement for the contractor to supply various spare parts, and instead providing the contractor with the equipment available in the City's traffic equipment inventory should provide savings of approximately \$100,000. Re-advertising the project for new bids will also allow staff time to process the required forms, and satisfy the federal funding guidelines and Caltrans.

## FISCAL IMPACT

A revised project cost estimate is provided below:

Construction	\$600,000
Construction Contingencies	\$65,000
Design & Administration	\$60,000
Inspection & Testing Services	\$60,000
<b>TOTAL</b>	<b>\$785,000</b>

The Adopted FY 2016 Capital Improvement Program includes \$474,000 for the project in the Transportation System Improvements Fund. Once bids have been received and an updated cost estimate is determined, staff will return to Council for additional needed funding.

## SUSTAINABILITY FEATURES

Solid Waste: This project requires that all material generated during construction and demolition be sent to designated facilities for recycling. Recycled and reclaimed aggregate will be required in the aggregate base as well as the Portland cement concrete used for the concrete curb, gutter and sidewalk.

Transportation: Consistent with the City's Complete Streets Policy, this project will provide improved pedestrian access across Mission Boulevard with pedestrian activated crosswalk signals at Blanche Street and help relieve congestion at the intersection of Gading Road and Huntwood Way with a new traffic signal system. This project will also provide ADA compliant curb ramps.

Energy: The proposed light fixtures for the pedestrian signal, traffic signal system and street lights will all be high efficiency LED, which uses minimal electrical energy.

## PUBLIC CONTACT

Because of the temporary inconvenience that is expected from the improvement work after the construction contract is awarded, staff will post and distribute preliminary notices explaining the project to residents and businesses along the affected streets. After the construction work has been scheduled, a detailed notice indicating the date and time of work for each street will be distributed to all affected residents and businesses.

## COMPLETE STREETS

As stated above, this project considers all users of the public right-of-way in addition to motorists. The existing accommodations such as transit facilities, bicycle facilities, sidewalk, and street lighting will not be affected by the project. This project will upgrade existing curb ramps that are not ADA compliant, and will restripe bicycle lanes and

crosswalks. These measures are consistent with the City's adopted Complete Streets Policy, which requires that consideration be given to all users of the street, in addition to vehicular traffic.

#### SCHEDULE

Open Bids	October 11, 2016
Award of Contract	November 1, 2016
Begin Work	November 28, 2016
Complete Work	February 28, 2017

Prepared by: Yaw Owusu, Assistant City Engineer

Recommended by: Morad Fakhrai, Director of Public Works

Approved by:



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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-\_\_\_\_\_

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

REJECTING ALL BIDS AND APPROVING THE REVISED PLANS  
AND SPECIFICATIONS FOR MISSION BOULEVARD AND  
BLANCHE STREET & GADING ROAD AND HUNTWOOD WAY  
INTERSECTIONS SAFETY IMPROVEMENTS, PROJECT NO. 05708  
AND CALL FOR NEW BIDS

WHEREAS, by resolution on May 17, 2016, the City Council approved the plans and specifications for the Mission Boulevard and Blanche Street & Gading Road and Huntwood Way Intersections Safety Improvements, Project No. 05708 and called for bids to be received on June 14, 2016; and

WHEREAS, on June 14, 2016, four bids were received ranging from \$668,268.00 to \$823,565.00; W. Bradley Electric, Inc. of Novato, California submitted the lowest bid in the amount of \$668,268.00, which is 56% above the Engineer's Estimate of \$440,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that all bids are hereby rejected for the Mission Boulevard and Blanche Street & Gading Road and Huntwood Way Intersections Safety Improvements, Project No. 05708, due to the high bid prices in excess of the engineer's estimate.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the revised plans and specifications for the Mission Boulevard and Blanche Street & Gading Road and Huntwood Way Intersections Safety Improvements, Project No. 05708, on file in the office of the City Clerk, are hereby adopted as the plans and specifications for the project.

BE IT FURTHER RESOLVED the City Clerk is hereby directed to cause a notice calling for bids for the required work and material to be made in the form and manner provided by law.

BE IT FURTHER RESOLVED that sealed bids therefor will be received by the City Clerk's office at City Hall, 777 B Street, 4<sup>th</sup> Floor, Hayward, California 94541 up to the hour of 2:00 p.m. on Tuesday, October 11, 2016, and immediately thereafter publicly opened and declared by the City Clerk in the Public Works Conference Room, 4D, located on the 4<sup>th</sup> Floor of City Hall, Hayward, California.

BE IT FURTHER RESOLVED, that the City Council will consider a report on the bids at a regular meeting following the aforesaid opening and declaration of same.

BE IT FURTHER RESOLVED, that the project is categorically exempt under section 15301(c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance, or minor alteration of existing facilities.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

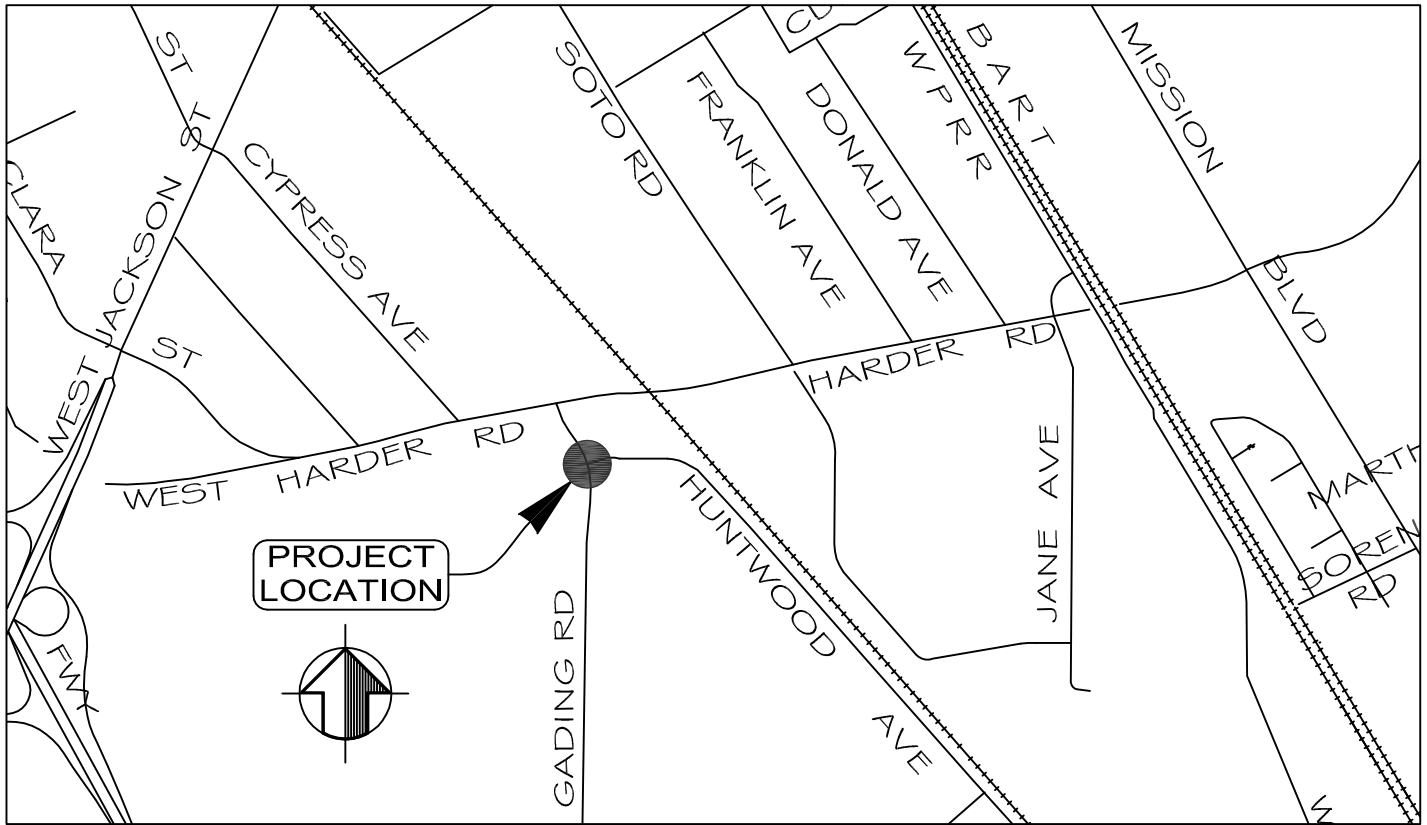
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

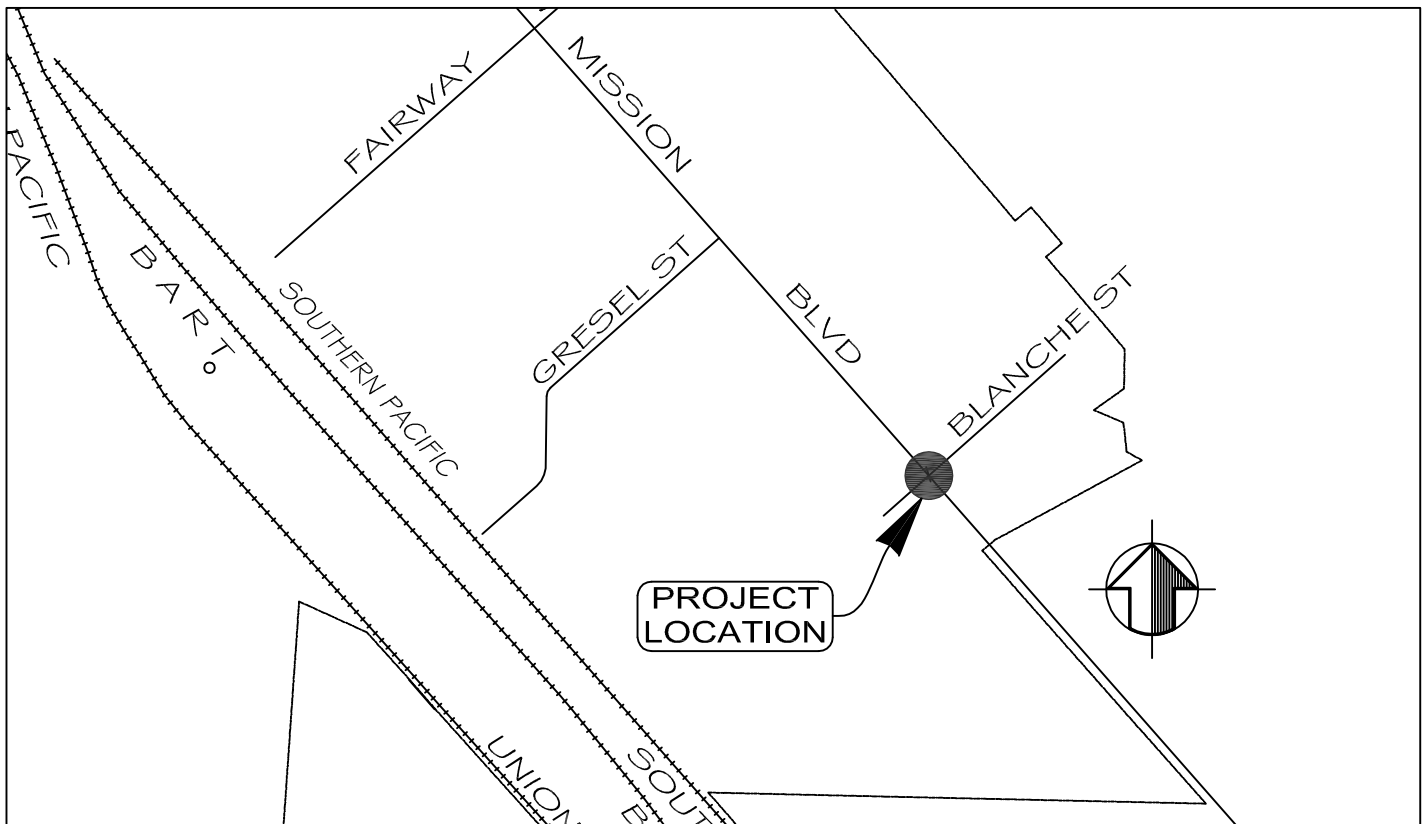
ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

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



GADING ROAD & HUNTWOOD WAY



MISSION BOULEVARD & BLANCHE STREET

# PROJECT LOCATION MAP

CITY OF HAYWARD  
 CONSTRUCTION OF MISSION, BLANCHE, GADING, & HUNTWOOD INTERSECTION SAFETY IMPROVEMENTS  
 PROJECT NO. 05708  
 BIDS OPENED: 6/14/16  
 (NUMBER OF BIDS RECEIVED - 4)

BID SUMMARY				ENGINEER'S ESTIMATE		W. Bradley Electric, Inc.		Columbia Electric, Inc.	
BID ITEM LIST 2.1						90 Hill Road Novato, CA 94945 (415) 898-1400 (415) 493-2559 FAX		1980 Davis Street San Leandro, CA 94577 (510) 430-9505 (510) 430-1860 FAX	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	MOBILIZATION	\$16,000.00	\$16,000.00	\$20,000.00	\$20,000.00	\$27,000.00	\$27,000.00
2	1	LS	TRAFFIC CONTROL	\$30,000.00	\$30,000.00	\$58,000.00	\$58,000.00	\$24,819.50	\$24,819.50
3	1	LS	CLEARING AND GRUBBING	\$1,500.00	\$1,500.00	\$15,300.00	\$15,300.00	\$10,780.00	\$10,780.00
4	67	CY	ROADWAY EXCAVATION	\$120.00	\$8,040.00	\$155.00	\$10,385.00	\$170.50	\$11,423.50
5	76	SF	FINISHED GRADING	\$3.00	\$228.00	\$3.00	\$228.00	\$3.30	\$250.80
6	173	LF	REMOVE MINOR CONCRETE (CURB & GUTTER)	\$6.00	\$1,038.00	\$22.00	\$3,806.00	\$24.20	\$4,186.60
7	1365	SF	REMOVE MINOR CONCRETE (SIDEWALK)	\$3.00	\$4,095.00	\$3.00	\$4,095.00	\$3.30	\$4,504.50
8	1	LS	TEMPORARY EROSION CONTROL	\$2,000.00	\$2,000.00	\$1,000.00	\$1,000.00	\$3,500.00	\$3,500.00
9	50	TN	HOT MIX ASPHALT	\$165.00	\$8,250.00	\$288.00	\$14,400.00	\$316.80	\$15,840.00
10	7	EA	RETROFIT EXISTING CURB RAMP WITH DETECTABLE WARNING SURFACE	\$800.00	\$5,600.00	\$887.00	\$6,209.00	\$975.70	\$6,829.90
BID ITEM LIST 2.1 TOTAL					\$76,751.00		\$133,423.00		\$109,134.80
BID ITEM LIST 2.2									
11	1405	SF	MINOR CONCRETE (CURB RAMP WITH DETECTABLE WARNING SURFACE)	\$20.00	\$28,100.00	\$15.00	\$21,075.00	\$16.50	\$23,182.50
12	110	SF	MINOR CONCRETE (SIDEWALK-4" THICK)	\$12.00	\$1,320.00	\$15.00	\$1,650.00	\$16.50	\$1,815.00
13	220	LF	MINOR CONCRETE (CURB AND GUTTER)	\$60.00	\$13,200.00	\$41.00	\$9,020.00	\$45.10	\$9,922.00
14	1	LS	IRRIGATION REPAIRS	\$1,125.00	\$1,125.00	\$1,100.00	\$1,100.00	\$1,210.00	\$1,210.00
15	1	LS	SIGNING & THERMOPLASTIC STRIPING, MARKINGS AND PAVEMENT MARKERS	\$5,000.00	\$5,000.00	\$18,000.00	\$18,000.00	\$24,860.00	\$24,860.00
16	1	LS	MISSION BLVD & BLANCHE ST PEDESTRIAN HYBRID BEACON AND ELECTRICAL SYSTEM	\$128,900.00	\$128,900.00	\$200,000.00	\$200,000.00	\$190,600.00	\$190,600.00
17	1	LS	GADING RD & HUNTWOOD WAY TRAFFIC SIGNAL AND ELECTRICAL SYSTEM	\$184,600.00	\$184,600.00	\$300,000.00	\$300,000.00	\$335,000.00	\$335,000.00
18	1	LS	RECYCLING IMPLEMENTATION	\$1,000.00	\$1,000.00	\$4,000.00	\$4,000.00	\$4,275.70	\$4,275.70
BID ITEM LIST 2.2 TOTAL					\$363,245.00		\$554,845.00		\$590,865.20
TOTAL BID AMOUNT					\$439,996.00		\$688,268.00		\$700,000.00

CITY OF HAYWARD  
 CONSTRUCTION OF MISSION, BLANCHE, GADING, & HUNTWOOD INTERSECTION SAFETY  
 PROJECT NO. 05708  
 BIDS OPENED: 6/14/16

*Healey for*  
 Morad Fakhrai, Director of Public Works

*6-28-16*  
 Date

(NUMBER OF BIDS RECEIVED - 4)

BID SUMMARY				ENGINEER'S ESTIMATE		Tennyson Electric, Inc. 7275 National Drive Livermore, CA 94550 (925) 606-1038 (925) 606-7656 FAX		St. Francis Electric 975 Carden Street San Leandro, CA 94577 (510) 639-0639 (510) 639-9116 FAX	
BID ITEM LIST 2.1									
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	MOBILIZATION	\$16,000.00	\$16,000.00	\$12,975.00	\$12,975.00	\$75,000.00	\$75,000.00
2	1	LS	TRAFFIC CONTROL	\$30,000.00	\$30,000.00	\$24,600.00	\$24,600.00	\$55,000.00	\$55,000.00
3	1	LS	CLEARING AND GRUBBING	\$1,500.00	\$1,500.00	\$8,800.00	\$8,800.00	\$15,000.00	\$15,000.00
4	67	CY	ROADWAY EXCAVATION	\$120.00	\$8,040.00	\$185.00	\$12,395.00	\$170.00	\$11,390.00
5	76	SF	FINISHED GRADING	\$3.00	\$228.00	\$10.00	\$760.00	\$3.50	\$266.00
6	173	LF	REMOVE MINOR CONCRETE (CURB & GUTTER)	\$6.00	\$1,038.00	\$20.00	\$3,460.00	\$24.00	\$4,152.00
7	1365	SF	REMOVE MINOR CONCRETE (SIDEWALK)	\$3.00	\$4,095.00	\$6.00	\$8,190.00	\$3.30	\$4,504.50
8	1	LS	TEMPORARY EROSION CONTROL	\$2,000.00	\$2,000.00	\$2,850.00	\$2,850.00	\$2,500.00	\$2,500.00
9	50	TN	HOT MIX ASPHALT	\$165.00	\$8,250.00	\$495.00	\$24,750.00	\$315.00	\$15,750.00
10	7	EA	RETROFIT EXISTING CURB RAMP WITH DETECTABLE WARNING SURFACE	\$800.00	\$5,600.00	\$900.00	\$6,300.00	\$915.00	\$6,405.00
BID ITEM LIST 2.1 TOTAL					\$76,751.00		\$105,080.00		\$189,967.50
BID ITEM LIST 2.2									
11	1405	SF	MINOR CONCRETE (CURB RAMP WITH DETECTABLE WARNING SURFACE)	\$20.00	\$28,100.00	\$21.00	\$29,505.00	\$16.50	\$23,182.50
12	110	SF	MINOR CONCRETE (SIDEWALK-4" THICK)	\$12.00	\$1,320.00	\$16.00	\$1,760.00	\$16.50	\$1,815.00
13	220	LF	MINOR CONCRETE (CURB AND GUTTER)	\$60.00	\$13,200.00	\$65.00	\$14,300.00	\$45.00	\$9,900.00
14	1	LS	IRRIGATION REPAIRS	\$1,125.00	\$1,125.00	\$6,500.00	\$6,500.00	\$1,200.00	\$1,200.00
15	1	LS	SIGNING & THERMOPLASTIC STRIPING, MARKINGS AND PAVEMENT MARKERS	\$5,000.00	\$5,000.00	\$19,500.00	\$19,500.00	\$27,000.00	\$27,000.00
16	1	LS	MISSION BLVD & BLANCHE ST PEDESTRIAN HYBRID BEACON AND ELECTRICAL SYSTEM	\$128,900.00	\$128,900.00	\$230,000.00	\$230,000.00	\$205,000.00	\$205,000.00
17	1	LS	GADING RD & HUNTWOOD WAY TRAFFIC SIGNAL AND ELECTRICAL SYSTEM	\$184,600.00	\$184,600.00	\$320,000.00	\$320,000.00	\$360,500.00	\$360,500.00
18	1	LS	RECYCLING IMPLEMENTATION	\$1,000.00	\$1,000.00	\$2,500.00	\$2,500.00	\$5,000.00	\$5,000.00
BID ITEM LIST 2.2 TOTAL					\$363,245.00		624,065.00		633,597.50
TOTAL BID AMOUNT					\$439,996.00		\$729,145.00		\$823,565.00





# CITY OF HAYWARD

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777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** CONS 16-514

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT**

Utility Service Agreement (16-01) - Pavel Gerasimov (Owner) - Adoption of a Resolution approving a Request for Water Service and Sewer Service for a Property at 4195 Picea Court in Unincorporated Alameda County, and Authorizing the City Manager to File an Application with the Alameda County Local Agency Formation Commission for Approval of an Out-of-Service Area Agreement and to Execute Utility Service and Public Street Improvement Agreements

**RECOMMENDATION**

That the City Council adopts the attached Resolution (Attachment II) approving Utility Service Agreement No. 6-01, and authorizing the City Manager to direct staff to file an application with the Alameda County Local Agency Formation Commission (LAFCo) for approval of an Out-of-Service Area Agreement, and execute related Utility Service and Public Street Improvement agreements.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Location Map



DATE: September 13, 2016

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT:

Utility Service Agreement (16-01) – Pavel Gerasimov (Owner) – Adoption of a Resolution approving a Request for Water Service and Sewer Service for a Property at 4195 Picea Court in Unincorporated Alameda County, and Authorizing the City Manager to File an Application with the Alameda County Local Agency Formation Commission for Approval of an Out-of-Service Area Agreement and to Execute Utility Service and Public Street Improvement Agreements

#### RECOMMENDATION

That the City Council adopts the attached resolution (Attachment II) associated with Utility Service Agreement No. 16-01, and authorizing the City Manager to direct staff to file an application with the Alameda County Local Agency Formation Commission (LAFCo) for approval of an Out-of-Service Area Agreement, and execute Utility Service and Public Street Improvement Agreements.

#### SUMMARY

In accordance with past practice and because there is capacity to provide such service, staff is recommending that the City be the sewer and water provider for this property in unincorporated Alameda County.

#### BACKGROUND AND DISCUSSION

The property owner has submitted an application to Alameda County for a building permit to construct a new single-family residence located at 4195 Picea Court in the unincorporated area of Alameda County. The property is located outside the boundaries of Hayward, but within the City of Hayward's Sphere of Influence (Attachment II), Water Service Area and Sewer Service Area. The Public Works – Utilities and Environmental Services Department has confirmed that the City's 8-inch sewer main located in Picea Court has sufficient capacity to accept additional sewer service, and that the City's 6-inch water main, also located in Picea Court, has sufficient capacity to accept additional water service.

Longstanding City policy allows parcels located in the unincorporated portion of the County to connect to the City water and sewer systems where parcels are within the City's Sphere of

Influence and Service Area. Furthermore, State law requires that the City file an application with Alameda County LAFCo for approval of an out-of-area service agreement prior to providing utility connections/service by the City for properties located within its Sphere of Influence, but outside its jurisdictional boundaries.

Pursuant to City policy, the owner has signed a Public Street Improvement Agreement committing to improve Picea Court to meet City's standards at a future date and agreeing to a future annexation of the property, if and when requested by the City. Requiring such an agreement is consistent with past practice for providing utility services to properties outside City of Hayward's jurisdictional boundaries, but within the boundaries of the City's Water and/or Sewer Service Areas.

Approval of a Utility Service Agreement and the related utility connections are not subject to environmental review, pursuant to Section 15061(b) (3) of the California Environmental Quality Act (CEQA) Guidelines. Section 15061(b) (3) states that a project is exempt from CEQA if, "the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

#### ECONOMIC IMPACT

There are no economic impacts associated with this recommended action.

#### FISCAL IMPACT

There will be no fiscal impact to the City's General Fund. The owners will pay the City's Enterprise Fund for all the expenditures, added maintenance costs, and applicable fees associated with the water service, in accordance with the City's fee schedule in effect at the time of issuance of the utility service permits.

#### PUBLIC CONTACT

A public hearing is not required for the filing of a Utility Service Agreement. Staff also sent a copy of this report to the owner.

#### NEXT STEPS

Should the Council authorize filing an application with LAFCo, staff will submit an application within the next 30 days so that this utility service agreement can be presented at LAFCo's November 10, 2016 hearing. Upon receiving LAFCo approval, the agreement will be executed and the property owner can commence the water and sewer connections after paying the applicable water and sewer connection fees to the City.

Prepared by: Peter Rei, P.E., Contract Development Review Engineer

Recommended by: David Rizk, AICP, Development Services Director

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is positioned above a horizontal line.

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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE ALAMEDA COUNTY LOCAL AGENCY FORMATION COMMISSION FOR APPROVAL TO ALLOW THE CITY TO PROVIDE SEWER SERVICE AND WATER SERVICE TO THE PROPERTY FRONTING PICEA COURT, BEARING ASSESSOR'S PARCEL NUMBER 425-0500-011-00, AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE UTILITY SERVICE (USA 16-01) AND PUBLIC STREET IMPROVEMENTS AGREEMENTS

WHEREAS, water and sewer service from the City of Hayward (City) has been requested by the owner of the property fronting Fairview Avenue, bearing Assessor's Parcel No. 425-0500-011-00 (the Property); and

WHEREAS, the Property is located within the City of Hayward's Sphere of Influence; and

WHEREAS, pursuant to City policy, the Property owner has signed Public Street Improvement and Utility Service Agreements to install street improvements across the Property frontage at a future date and to agree to annexation of the Property into Hayward when requested by City; and

WHEREAS, the City is required to apply to the Alameda County Local Agency Formation Commission (LAFCO) for approval of out-of-service area agreements to allow the City of Hayward to provide water and/or sewer service to properties located outside the City limits; and

WHEREAS, the Property owner has agreed to pay the LAFCO application processing costs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized to direct staff to file an application with the Alameda County Local Agency Formation Commission requesting that the City of Hayward be allowed to provide water and sewer service for the Property.

BE IT FURTHER RESOLVED that, provided LAFCO approves an out-of-area service agreement pursuant to Government Code §56133, the City Manager is also authorized to execute a utility service agreement (Utility Service Agreement 16-01) and a public street improvement agreement in the form of the agreements on file in the office of the City Clerk, to which reference may be made for further particulars.

IN COUNCIL, HAYWARD, CALIFORNIA, September 13, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

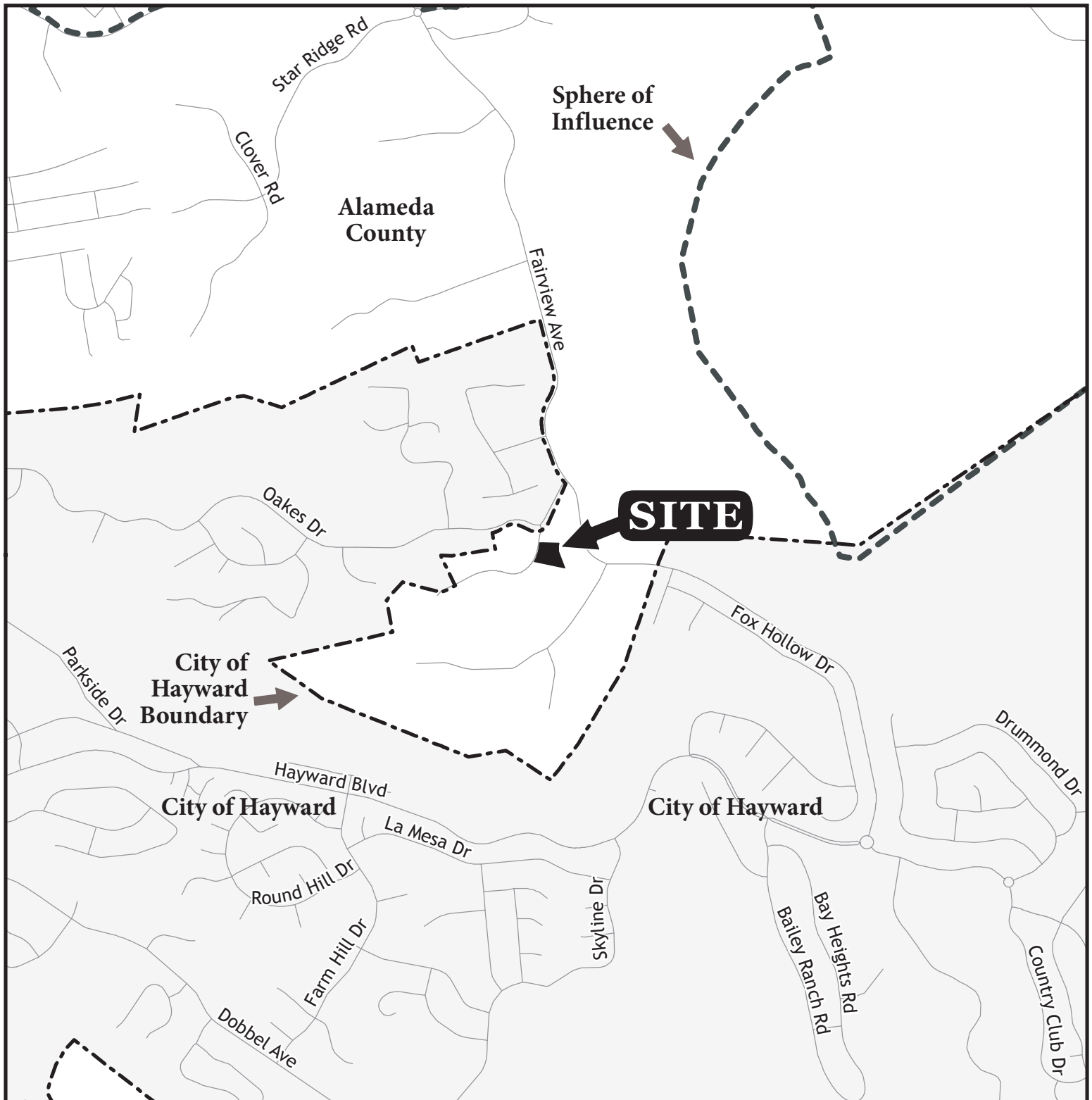
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Miriam Lens, City Clerk

APPROVED AS TO FORM:

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Michael Lawson, City Attorney



# Project Location Map

201602440 USA 16-01  
Picea Ct

Mile 0

0.5





# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** CONS 16-521

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** Director of Utilities & Environmental Services

**SUBJECT**

Recycled Water Storage and Distribution System Project: Adoption of Revised Authorizing Resolution and Revised Reimbursement Resolution Required for the State Revolving Fund Loan Application

**RECOMMENDATION**

That the City Council adopts the attached revised resolutions (Attachments I and II) required by the State Water Resources Control Board (SWRCB) for the City to apply for recycled water funding through the State Revolving Fund (SRF) Loan Program.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Authorizing Resolution for SRF Funding
Attachment III	Reimbursement Resolution for SRF Funding





DATE: September 13, 2016

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT

Recycled Water Storage and Distribution System Project: Adoption of Revised Authorizing Resolution and Revised Reimbursement Resolution Required for the State Revolving Fund Loan Application

#### RECOMMENDATION

That the City Council adopts the attached revised resolutions (Attachments I and II) required by the State Water Resources Control Board (SWRCB) for the City to apply for recycled water funding through the State Revolving Fund (SRF) Loan Program.

#### SUMMARY

On May 19, 2015, the City Council adopted Resolution 15-072, authorizing the City Manager to sign and file an SRF loan application in an amount not to exceed \$12 million for the recycled water storage and distribution system project. On October 13, 2015, the City Council adopted Resolution 15-194, Reimbursement Resolution, in support of the SRF Loan Application. The project is currently in the final design phase and the estimated project cost has increased from \$12 million to approximately \$20 million due to necessary changes and refinements in the project design. In view of the increase in project costs, staff has revised Resolutions 15-072 and 15-194, as required by SWRCB, to request additional project funding through SWRCB's SRF Loan program.

#### BACKGROUND

The proposed project consists of installing a one million gallon (1 MG) storage tank and pump station at the City's Water Pollution Control Facility (WPCF) and constructing distribution pipelines and customer connections to deliver an estimated 290 acre-feet per year of recycled water to twenty-four customers within the City of Hayward. The current project anticipates that the City would purchase tertiary treated recycled water from Calpine's Recycled Water Facility located adjacent to the WPCF. The City completed an application for a low interest SRF loan for the project and submitted it to SWRCB in December 2015.

## DISCUSSION

The proposed project was originally designed to use an existing abandoned eight-inch diameter Shell Oil pipeline that would form the backbone of the distribution system. However, based on further evaluation, staff is recommending that the City install new water mains for recycled water distribution instead of rehabilitating and reusing the existing Shell Oil pipeline. The recommendation is based on numerous and complex issues that were raised during design, including concerns with the ability to successfully rehabilitate the pipeline potential liabilities associated with the transfer of ownership, and unlikely cost savings. In addition to the decision to install new pipelines in-lieu of re-purposing the Shell oil pipeline, City staff is also recommending installing a larger storage tank to increase supply reliability and provide storage for future recycled water demands. Accordingly, the tank size was increased from 0.4 MG in the original project to 1 MG. These design refinements would result in an increase in the estimated total project cost. The new pipelines and increase in tank size fall within the range of options that were considered in the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the project and therefore no additional environmental review is required.

## ECONOMIC IMPACT

Staff will evaluate the cost of treating and delivering recycled water and recommend a rate structure that would provide an incentive for eligible customers to use recycled water. At this time, it is unknown if those rates would cover the entire costs of the project. The delivery of recycled water can provide cost savings to the customers, including businesses that would receive recycled water. The benefit of this project is that it will ensure a reduction in potable water use, allowing for greater diversity and reliability in the City's water supply especially during droughts.

## FISCAL IMPACT

A Capital Improvement Project, titled "Recycled Water Treatment and Distribution Facility," is included in the current Capital Improvement Program's Sewer Improvement Fund. The City is anticipating \$19,365,000 in SRF loan funds to finance the entire project. The City also intends to pursue federal grant funding of about \$5 million from the US Bureau of Reclamation under Title XVI, as well as other grant opportunities for the final design and construction of the project. If grant money becomes available from other sources, the amount of SRF loan required will be reduced, thus providing more flexibility to move forward with the project.

This project will not utilize any General Fund monies and the debt service incurred will be obligated to the Wastewater Enterprise Fund.

## SUSTAINABILITY FEATURES

The use of recycled water will reduce the demand for potable water and hence improve the reliability and availability of potable water. It will also reduce the volume of wastewater and

associated residual pollutants discharged to San Francisco Bay, which is required to meet with increasingly stringent discharge regulations.

The City will continue to evaluate expanding recycled water as a sustainable alternative to using potable water for additional applications in the future.

## PUBLIC CONTACT

The City completed an environmental review of the project in October 2014 and a draft Initial Study/Mitigated Negative Declaration (IS/MND) was circulated for a 30-day public review from October 24, 2014 through November 24, 2014. The IS/MND was adopted on December 16, 2014, incorporating all the comments that were received. The Recycled Water Ordinance, that includes mandatory provisions for use of recycled water for appropriate irrigation and industrial uses, was introduced at a public hearing of the City Council on December 1, 2015 and adopted on December 15, 2015. Prior to the adoption of the Recycled Water Ordinance, a customer meeting was held on November 20, 2015 at City Hall to inform the customers about the project.

## NEXT STEPS

If the Council approves the two revised resolutions, staff will proceed with the submittal of the updated SRF loan application that will include the updated project cost.

Staff will also proceed to complete the design of the recycled water storage and distribution system and continue discussions with Calpine to develop a mutually acceptable recycled water supply agreement.

Prepared by: Jan Lee, Water Resources Manager  
Aparna Chatterjee, Associate Civil Engineer

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

Approved by:



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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AND FILE A  
STATE REVOLVING FUND LOAN FINANCIAL ASSISTANCE APPLICATION IN  
AN AMOUNT NOT TO EXCEED \$20,000,000 FOR CAPITAL IMPROVEMENT  
PROJECT #07507 – RECYCLED WATER STORAGE AND DISTRIBUTION  
SYSTEM PROJECT

WHEREAS, the City Council approved the 2015 Capital Improvement Program, which included Project #07507 – Recycled Water Storage and Distribution System; and

WHEREAS, in December 2015, the City submitted an application to the State Water Resources Control Board for financial assistance through the State Revolving Fund loan program to help finance the Recycled Water Storage and Distribution System Project; and

WHEREAS, on May 19, 2015, the City Council adopted Resolution 15-072 authorizing the City Manager to sign and file a State Revolving Fund loan application in an amount not to exceed \$12,000,000 for the Recycled Water Storage and Distribution System Project; and

WHEREAS, the estimated cost of the Recycled Water Storage and Distribution System Project has increased to approximately \$20,000,000 due to the need for construction of a new recycled water distribution pipeline rather than repurposing an abandoned fuel pipeline, and refinements in the project design; and

WHEREAS, the State Water Resources Control Board is requiring the City to revise Resolution 15-072 to reflect the increased funding the City is requesting to finance the Recycled Water Storage and Distribution System Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to sign and file, for and on behalf of the City of Hayward, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of the Recycled Water Storage and Distribution System Project (#07507), in an amount not to exceed \$20,000,000.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the City Manager is designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the State Water Resources Control Board and any amendments or changes thereto.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the City Manager is designated to represent the City in carrying out the responsibilities under the financing agreement, including certifying disbursement requests on behalf of the Entity and compliance with applicable state and federal laws.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

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

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

RECYCLED WATER STORAGE AND DISTRIBUTION SYSTEM PROJECT  
REIMBURSEMENT RESOLUTION IN SUPPORT OF STATE WATER  
RESOURCES CONTROL BOARD STATE REVOLVING FUND LOAN  
APPLICATION

WHEREAS, the City of Hayward (the City) desires to finance the costs of constructing and/or reconstructing certain public facilities and improvements relating to its water and wastewater system, including certain treatment facilities, pipelines and other infrastructure (the "Project"); and

WHEREAS, the City intends to finance the construction and/or reconstruction of the Project or portions of the Project with moneys ("Project Funds") provided by the State of California, acting by and through the State Water Resources Control Board (State Water Board); and

WHEREAS, the State Water Board may fund the Project Funds with proceeds from the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the "Obligations"), and

WHEREAS, prior to either the issuance of the Obligations or the approval by the State Water Board of the Project Funds the City desires to incur certain capital expenditures (the "Expenditures") with respect to the Project from available moneys of the City; and

WHEREAS, the City has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the proceeds of the Obligations.

NOW, THEREFORE, THE CITY COUNCIL DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. The City hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the issuance of the Obligations or the approval by the State Water Board of the Project Funds.

SECTION 2. The reasonably expected maximum principal amount of the Project Funds is \$19,365,000.00.

SECTION 3. This resolution is being adopted no later than 60 days after the date on which the City will expend moneys for the construction portion of the Project costs to be reimbursed with Project Funds.

SECTION 4. Each of the City's expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.

SECTION 5. To the best of our knowledge, the City is not aware of the previous adoption of official intents by it that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 6. This resolution is adopted as official intent of the City in order to comply with Treasury Regulation §1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

SECTION 7. All the recitals in this Resolution are true and correct and the City Council so finds, determines and represents.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

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



# CITY OF HAYWARD

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**File #:** CONS 16-522

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** Economic Development Manager

**SUBJECT**

Economic Development Small Business Revolving Loan Fund - Loan Request MYL Restaurant Concepts, LLC

**RECOMMENDATION**

That the City Council adopts a resolution to increase the Economic Development Small Business Revolving Loan Fund program maximum disbursement and authorizes the City Manager to enter into a loan agreement with Hayward MYL Restaurant Concepts, LLC.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution Approving Funding





DATE: September 13, 2016

TO: Mayor & City Council

FROM: Economic Development Manager

SUBJECT:

Economic Development Small Business Revolving Loan Fund – Loan Request MYL Restaurant Concepts, LLC

#### RECOMMENDATION

That the City Council adopts a resolution to increase the Economic Development Small Business Revolving Loan Fund program maximum disbursement and authorizes the City Manager to enter into a loan agreement with Hayward MYL Restaurant Concepts, LLC.

#### BACKGROUND

In 1990, the City Council established a Small Business Revolving Loan Fund (RLF) program to provide gap financing to small businesses in order to facilitate access to capital and leverage private sector funds. Providing capital for business expansion, retention, and job creation has been a key element of this program. The Small Business Revolving Loan Fund was initiated from the federal Community Development Block Grant (CDBG) program with the intent to spur job creation.

In September of 2014, the City Council adopted an updated Community Development Block Grant Compliance Policy Manual and authorized the City Manager to implement the program which includes disbursement of CDBG funds. The RLF Program is funded through the CDBG program, and typically allows up to \$100,000 toward a single loan disbursement. In order to authorize an increased loan disbursement, Council would need to amend the RLF Program to increase the maximum disbursement amount.

This program has assisted multiple Hayward businesses to establish or grow in Hayward and has added jobs to our community. The City recently received a funding request of \$200,000 from MYL Restaurant Concepts, LLC. Its founding partner is an experienced restaurateur successfully managing and operating Pican, a Zagat and Michelin Gourmand-rated restaurant in Oakland. The request for funds is gap financing to assist with purchasing equipment,

furniture, and provide working capital for his new restaurant at 1034 B Street. The previous restaurant owner is selling his business.

## DISCUSSION

Economic Development staff view the proposed business as a potential economic catalyst for the Downtown. The City has targeted restaurant and entertainment users as key ingredients to the revitalization of Downtown. The proposed restaurant would provide a quality full-service restaurant to complement both new and existing food and entertainment businesses along B Street. The background and experience of the restaurateur is an indication that the Hayward market is desirable. Specifically, this request is in line with the City of Hayward General Plan (adopted July 1, 2014), Guiding Principle #5. This principle states that Hayward should have a safe, walkable, vibrant, and prosperous Downtown that serves as an attractive area for business and a destination for shopping and dining, arts and entertainment, and college-town culture. Continued support for Downtown revitalization efforts include tools such as the RLF program that can assist in transforming the Hayward Downtown and the City as a whole into a place everyone gathers to interact, shop, dine, play and celebrate.

Increasing the maximum loan disbursement amount would also be consistent with the CDBG program which allows higher loan disbursements on a case-by-case basis if determined as an eligible activity for fulfillment of the National Objectives (job creation, elimination of blight, benefitting low and moderate income households). Staff has outreached to program oversight at the Department of Housing and Urban Development (HUD) and has confirmed that the additional funds up to \$200,000 for job creation would be warranted. The current loan disbursement maximum of the RLF Program was established in 1990 and is not reflective of current day capitalization costs in particular for full-service restaurant space which is a targeted user for the City and Downtown.

Lastly, the Revolving Loan Fund request was reviewed by the City of Hayward RLF Committee, which is comprised of bankers and business financial experts. Upon review of the business plan and supporting financial information, the loan request was unanimously recommended for approval on August 10, 2016.

If the loan amount is approved by Council, the project would be able to move forward and the borrower would begin operations by hiring fifteen low to moderate-income employees to fill positions such as waiter, waitress, cashier, dishwasher, and janitorial service provider. An additional ten, higher paid individuals would be hired as chefs, bartenders, and managers.

## ECONOMIC IMPACT

Increasing the maximum RLF loan amount would enable eligible borrowers (subject to fund availability) to secure additional financing for project success not currently available through traditional lending institutions, and fulfillment of the CDBG fund allocation to the City. In addition, as mentioned above, a recognized full-service restaurant with a following could act as a catalyst and increase overall interest in the downtown as an entertainment and dining destination.

## FISCAL IMPACT

Currently there is a FY 2017 budget of \$498,496 available for the RLF Program. These funds were designed to be distributed as part of the RLF program. The requested loan would be for \$200,000 and would be secured by a note on property owned by Michael Leblanc. The secured loan would be consistent with CDBG and City guidelines.

Prepared by: Sally Porfido, Economic Development Consultant

Recommended by: Micah Hinkle, Economic Development Manager

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is positioned above a horizontal line.

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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

Introduced by Councilmember \_\_\_\_\_

RESOLUTION AUTHORIZING INCREASING THE ECONOMIC DEVELOPMENT  
SMALL BUSINESS REVOLVING LOAN FUND MAXIMUM DISBURSEMENT  
AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A LOAN AGREEMENT WITH  
HAYWARD MYL RESTAURANT CONCEPTS, LLC.

WHEREAS, The City of Hayward is the recipient of Community Development Block Grant Funds; and

WHEREAS, in 1990, the City of Hayward created a Small Business Revolving Loan Fund (RLF) program to provide gap financing to small businesses in order to facilitate access to capital and leverage private sector funds to spur job creation; and

WHEREAS, the Small Business Revolving Loan Fund program allows for a disbursement up to \$100,000; and

WHEREAS, the maximum loan disbursement has not been increased since 1990 and CDBG program guidance allows larger loan disbursements on a case by case basis if determined as an eligible activity for fulfillment of the National Objectives (job creation, elimination of blight, benefitting low and moderate income households); and

WHEREAS, the City of Hayward has received confirmation from CDBG program oversight at the Department of Housing and Urban Development that larger loan disbursements for job creation would be an eligible activity for fulfillment of the National Objectives; and

WHEREAS, on July 18, 2016, the City of Hayward received a RLF Loan Application requesting \$200,000 from MYL Restaurant Concepts, LLC for gap financing for a full- service restaurant with a potential job creation of 25 jobs; and

WHEREAS, on August 10, 2016, the City of Hayward Revolving Loan Committee reviewed the application materials including a business plan and supporting financial documents and recommended approval of the loan; and

WHEREAS, the requested loan of \$200,000 would be a secured loan with a note placed on property owned by Michael LeBlanc; and

WHEREAS, the support of the loan request would facilitate the development of a potential catalytic full-service restaurant enhancing the Downtown Hayward as a destination for dining and entertainment.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Revolving Loan Fund maximum disbursement shall be an amount not to exceed \$200,000 and the City Manager is hereby authorized and directed to establish terms and enter into a loan agreement on behalf of the City of Hayward with Hayward MYL Restaurant Concepts, LLC in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

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



# CITY OF HAYWARD

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**File #:** CONS 16-525

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT**

Commercial Aviation Site Lease with Aviation Training, Inc.

**RECOMMENDATION**

That Council approves a resolution authorizing the City Manager to negotiate and execute a ground lease with Aviation Training, Inc.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Aviation Training, Inc. Leasehold Site Location



DATE: September 13, 2016

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Commercial Aviation Site Lease with Aviation Training, Inc.

#### RECOMMENDATION

That Council approves a resolution authorizing the City Manager to negotiate and execute a ground lease with Aviation Training, Inc.

#### BACKGROUND

On September 1, 1975, Aviation Training, Inc. entered into a Commercial Aviation Site Lease with the City for a parcel of land identified as Plot "F," Segment VI, located at 21593 Skywest Drive (Attachment III). The parcel consists of approximately 50,018 square feet of improved land. The lease with Aviation Training, Inc. expired on August 31, 2015. The company was interested in a lease extension. Jerome Hoffman of Aviation Training, Inc. and his attorney appeared before the Council Airport Committee (CAC) and City Council to make the request. However, based on the recommendation of staff, a decision was made to explore all available options.

Park Avion Property Management HWD, LLC, a commercial tenant at the Airport, informed staff of their interest in assuming the Aviation Training leasehold once it became available. Under the terms of the lease amendment, with certain specific limitations, Park Avion is entitled to a right of first refusal for up to three leaseholds at the airport when they become available, and are permitted a 180-day due diligence period to inspect the property. However, after completing a due diligence investigation of the Aviation Training leasehold, Park Avion withdrew their proposal. The City is currently in possession of the leasehold with a subtenant, Flying Vikings, occupying the space to provide flight instruction to the general public.

#### DISCUSSION

In addition to Park Avion, staff received inquiries about the leasehold from three other companies. Jerome Hoffman of Aviation Training, Inc. has met with City staff on four different occasions to continue discussions on the opportunity. On June 15, 2016, he submitted a written proposal to obtain a new commercial ground lease with the City. To date, staff has not received a written proposal or received the same level of interest from the other parties. The

City has the option to issue a Request for Proposals (RFP) for available space at the airport or accept submitted proposals. In the past, the City has taken both approaches. Because of their long tenure at the airport, the original investment to construct the existing hangar and office building, the longstanding business relationship with the existing subtenant, and the limited market for older airport buildings, staff recommends that Aviation Training, Inc.'s proposal be considered.

Aviation Training, Inc.'s proposal outlines steps taken to assess the current condition of the hangar and office buildings, including inspections by the City of Hayward's Fire Marshal and National Property Inspections. Based on the conditions found, Mr. Hoffman met with building and landscaping contractors to prepare a list of proposed improvements to the leasehold totaling an estimated cost of \$175,000. The proposed improvements include the following items:

- Repave the vehicle parking lot
- Repair perimeter fencing
- Remove existing landscaping and install new street side landscaping
- Install a new four-inch sewer lateral pipe from the street to the building
- Remove the signage on the front side of the office building that does not meet current code requirements
- Install two new custom-made fabric awnings
- Remove the lower portion of the building exterior stone veneer and install a new custom pressure-treated skirt
- Pressure-wash and repaint the building exterior
- Clean and reseal the building skylights
- Replace the existing wood separations on the front of the building
- Replace the toilet in the second floor restroom
- Replace the shop sink in the hangar
- Overhaul the large hangar doors
- Replace the carpet in the upper office and hallway
- Replace the existing staircase to the rear of the hangar loft
- Replace the existing baseboard heaters in all office areas
- Install new GFCI plugs in all restrooms
- Inspect for asbestos tile in the maintenance office and replace if necessary

In consideration of these improvements and his desire to amortize them over an adequate length of time, Mr. Hoffman requests a lease term of thirty years, and staff concurs.

The Council Airport Committee (CAC) has unanimously recommended this item for further action by Council.

## FISCAL IMPACT

The proposed rent was negotiated at \$0.44 per square foot per year for this improved land. This rate is based on a survey of comparable general aviation airports for improved land. This



is in excess of the \$0.32 per square foot per year for unimproved land at the Airport. The rate of \$0.44 per square foot is subject to increase as outlined in the Airport's existing Policy Establishing Periodic Adjustments to Land Value. The initial rent is equivalent to \$22,008 annually. This is in addition to the value of the improvements to be made to the facility.

## SUSTAINABILITY FEATURES

No additional physical improvements to the leasehold are anticipated during the remainder of this ground lease. Therefore, this section is not applicable.

## PUBLIC CONTACT

Extension of the original lease between the City and Aviation Training, Inc. was discussed at the CAC Meeting on July 10, 2014 and the Council meeting on July 15, 2014. Most recently, this item was presented to the CAC on June 14, 2016. There was public discussion at that meeting and CAC unanimously recommended this item for further action by Council.

Prepared by: Douglas McNeeley, Airport Manager

Recommended by: Morad Fakhrai, Director of Public Works

Approved by:



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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO.16 -

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

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A GROUND LEASE BETWEEN THE CITY OF HAYWARD AND AVIATION TRAINING, INC.

WHEREAS, the City of Hayward ("City") owns and operates the Hayward Executive Airport; and

WHEREAS, Aviation Training, Inc. has previously been a tenant in good standing at Hayward Executive Airport; and

WHEREAS, Aviation Training, Inc. wishes to lease certain property at Hayward executive Airport; and

WHEREAS, Aviation Training, Inc. has agreed to make significant capital improvements to the leasehold at the Airport.

NOW, THEREFORE, BE IT RESOLVED, that the City Manager is authorized to negotiate and execute a Ground Lease between the City and Aviation Training, Inc. in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

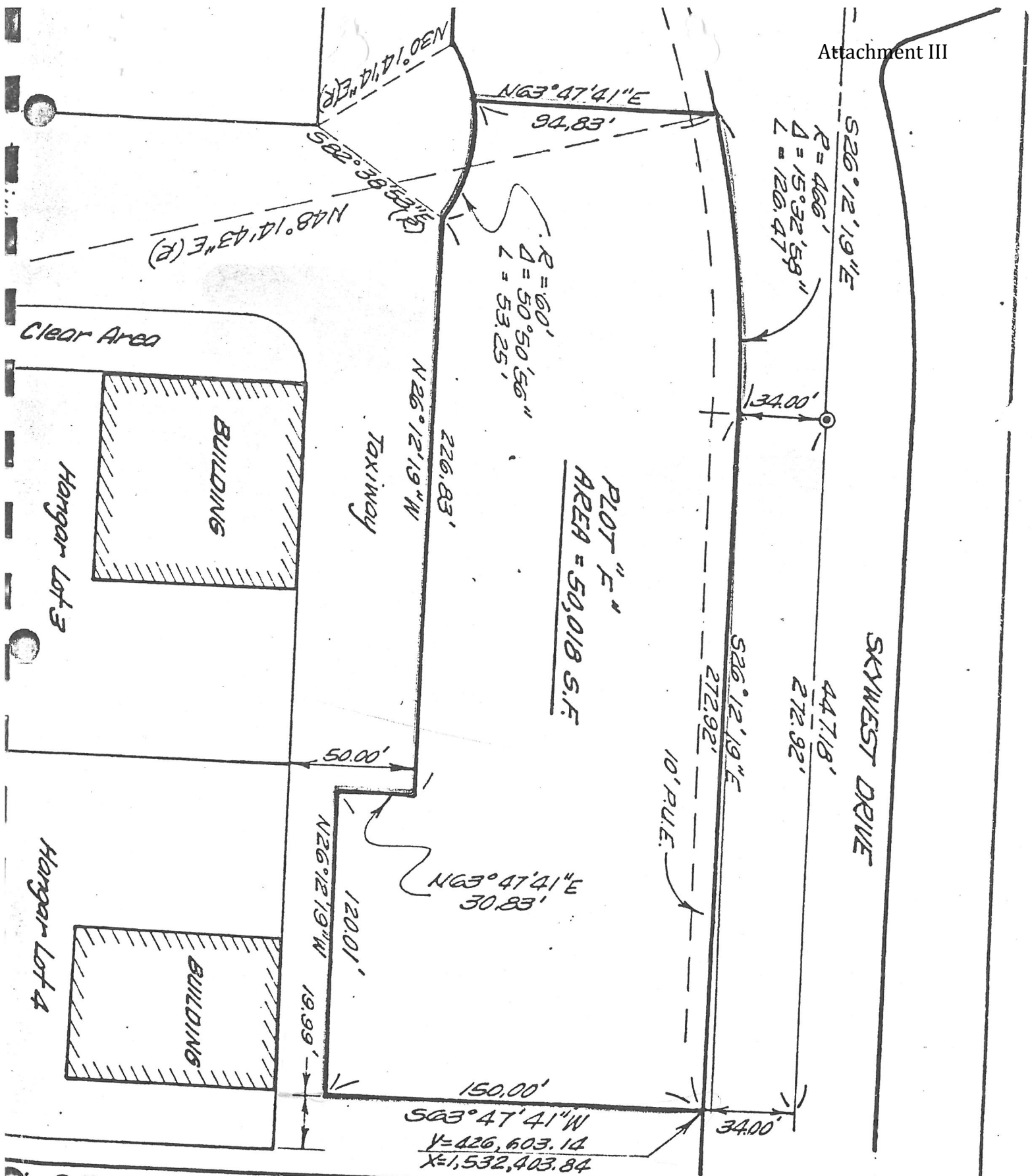
ATTEST: \_\_\_\_\_

City Clerk of the City of Hayward

APPROVED AS TO FORM:

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City Attorney of the City of Hayward



PLOT "F"  
AREA = 50,018 S.F.

SKYWEST DRIVE

10' P.U.E.

CITY OF HAYWARD ENGINEERING DIVISION	
APPROVED BY: J.G.M.	DATE: AUGUST 21, 1975
S.P.	SCALE: 1" = 60'
WL	

LEASE PARCEL  
PLOT F  
SEGMENT VI

DRWG. NO.	
FILED	



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** CONS 16-539

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT**

Amendment to Professional Services Agreement with ENGEO, Inc.

**RECOMMENDATION**

That Council adopts the attached resolution, authorizing the City Manager to execute an amendment to a professional services agreement with ENGEO Incorporated for geotechnical services required to evaluate the development ability of excess property in the Route 238 Bypass Corridor.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution



DATE: September 13, 2016

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Amendment to Professional Services Agreement with ENGEO, Inc.

#### RECOMMENDATION

That Council adopts the attached resolution, authorizing the City Manager to execute an amendment to a professional services agreement with ENGEO Incorporated for geotechnical services required to evaluate the development ability of excess property in the Route 238 Bypass Corridor.

#### BACKGROUND AND DISCUSSION

In the mid-1960s, the California Department of Transportation (Caltrans) purchased over 400 parcels of property for the construction of the then-planned 238 Bypass Freeway project. In 1971, the community filed a lawsuit to stop the project. Caltrans subsequently declared the project dead and abandoned.

On January 12, 2016, Council authorized the City Manager to complete negotiations with Caltrans for the purchase of specific parcels of land along the 238 Bypass Corridor that they had declared to be in excess.

In order to assess the geological constraints at each of the properties under consideration for purchase, the City requested proposals from consultants for geotechnical and environmental phase I studies. After reviewing the qualifications of the two responders, and because of their familiarity and previous work in the area, the City entered into an agreement with ENGEO Incorporated for an overview of the environmental and geologic hazards associated with six of the ten groups of properties being appraised and under consideration for acquisition from Caltrans. The City's initial agreement with ENGEO was for an amount not-to-exceed \$75,000. Concurrently, ENGEO contracted directly with Lyon Homes for a similar overview of the remaining four groups of property near Mission Boulevard and Valle Vista Avenue.

Based on the findings in those overviews, additional on-site trenching and borings are needed to determine the extent of any earthquake fault and/or slope stability issues that may impact future development potential. Staff recommends an amendment to the ENGEO agreement in an amount not-to-exceed \$200,000 that would provide further geotechnical analysis and

study of the proposed La Vista Park (Group 3), the Bunker Hill neighborhood (Group 5) and the former quarry site near Carlos Bee Boulevard (Group 6). The additional study will provide appraisers with better data for a more appropriate determination of the properties' development potential and corresponding valuation.

#### FISCAL IMPACT

There are sufficient funds in the Route 238 Corridor Improvement fund to cover the additional contract cost. If the subject properties are purchased from Caltrans and sold to a viable developer, the City may be reimbursed for this additional expense by providing the geotechnical study to the developer and adding its cost to the sales price.

#### SUSTAINABILITY FEATURES

The action taken for this agenda report will not result in a physical development, purchase or service, or a new policy or legislation. Any physical work will depend upon a future Council action.

#### PUBLIC CONTACT

No public contact has occurred associated with this action.

#### SCHEDULE

ENGEO anticipates completed reports for Groups 3, 5 and 6 in ten, twelve, and six weeks, respectively.

Prepared by: Yaw Owusu, Assistant City Engineer

Recommended by: Morad Fakhrai, Director of Public Works

Approved by:



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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND AN AGREEMENT WITH  
ENGEO INCORPORATED FOR GEOTECHNICAL PROFESSIONAL SERVICES TO STUDY  
ROUTE 238 BYPASS PROPERTIES

WHEREAS, the City is working with the California Department of Transportation (Caltrans) on the sale of certain properties acquired for its former 238 Bypass project that have been declared to be "excess property"; and

WHEREAS, the City has entered into an agreement with ENGEO Incorporated (ENGEO) for geotechnical and Phase I environmental studies of those properties; and

WHEREAS, the City and ENGEO desire to amend the scope of work for their agreement to include exploratory trenches and soils borings to better determine the development potential of the excess property; and

WHEREAS, ENGEO has provided a proposal for the additional work that is to be performed in an additional amount not to exceed \$200,000.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby authorize and direct the City Manager to execute an amendment to the agreement with ENGEO Incorporated for additional geotechnical professional services in an additional amount not to exceed \$200,000 and in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES:            COUNCIL MEMBERS:  
                     MAYOR:

NOES:           COUNCIL MEMBERS:

ABSTAIN:       COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:



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

APPROVED AS TO FORM:

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



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** CONS 16-546

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** Fire Chief

**SUBJECT**

EBRCSA Phase 3 Implementation - Authorize the City Manager to Negotiate and Execute a Lease-Purchase Agreement with Motorola Solutions for Mobile and Portable Radios and Associated Equipment Not to Exceed \$2,600,000

**RECOMMENDATION**

That the City Council adopts the attached resolution authorizing the City Manager to negotiate and execute a lease-purchase agreement with Motorola Solutions, Inc. for mobile and portable radios and associated equipment. This would allow the Hayward Police Department and non-public safety field staff from various departments to join the East Bay Regional Communications System Authority (EBRCSA) network.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Proposal from Motorola Solutions



DATE: September 13, 2016

TO: Mayor and City Council

FROM: Fire Chief

SUBJECT

EBRCSA Phase 3 Implementation - Authorize the City Manager to Negotiate and Execute a Lease-Purchase Agreement with Motorola Solutions for Mobile and Portable Radios and Associated Equipment Not to Exceed \$2,600,000

#### RECOMMENDATION

That the City Council adopts the attached resolution authorizing the City Manager to negotiate and execute a lease-purchase agreement with Motorola Solutions, Inc. for mobile and portable radios and associated equipment. This would allow the Hayward Police Department and non-public safety field staff from various departments to join the East Bay Regional Communications System Authority (EBRCSA) network.

#### BACKGROUND

In 2007, the City joined the East Bay Regional Communications Systems Authority (EBRCSA), a Joint Powers Authority established to facilitate regional compliance with Project 25 (P25), an FCC standard for communications interoperability intended to provide seamless communication between government agencies providing mutual aid and in the event of a natural disaster or other regional emergency. In 2011, the Hayward Fire Department completed Phase 2 of Hayward's EBRCSA implementation, purchasing and programming 82 EBRCS-compliant units with federal grant funding. Phase 3 of EBRCSA implementation was planned to include the Hayward Police Department and non-public safety field staff from various City departments. Since the Police Department's radio system has reached the end of its useful life, it is appropriate to begin the implementation of Phase 3.

Completing Phase 3 of EBRCSA implementation will increase Hayward's interoperability with other agencies and provide the City with a regional and secure public safety radio communications system.

#### Current Communications System

Currently, the Hayward Police Department is the only public safety agency in Alameda County that does not participate in the interoperable EBRCSA system. Joining the EBRCSA system will allow Hayward to fully participate in providing and receiving mutual aid in large-scale or regional incidents.

The Police Department has been experiencing intermittent problems with the current radio system. In April 2015, a radio channel failed and dispatch was required to transmit on a secondary channel as a workaround. A radio antenna was mounted on City Hall as a temporary fix. In September 2015, the logging recorder crashed, necessitating the purchase of a replacement logger, which was selected to be compatible with EBRCSA. Other parts of the current radio system are becoming obsolete, necessitating replacement.

Participating in EBRCSA will simplify mutual aid operations and improve the department's ability to communicate with other public safety agencies during regional emergencies.

Non-public safety field staff in Public Works, Utilities and Environmental Services, Maintenance Services, Building, Code Enforcement, and Information Technology will be equipped with EBRCSA-compatible communications equipment in the third phase of implementation as well. Currently, field staff in these departments do not use radios as a means of communication. Some departments use City-issued cell phones for communication in the field, while others use personal cell phones. Using cell phones as the primary means of communication in the field can present problems for staff working in the hillside areas of the City, where service can be unreliable. Due to these challenges, non-public safety field staff have specifically requested a means of communication in the field that is not dependent on cellular technology.

In addition to providing more reliable communication during standard operations, providing interoperable portable radios to non-public safety field staff will improve the City's capacity to respond to emergencies. In situations such as natural disasters, coordination between decision-makers and staff in the field, including first responders, inspectors, and public works staff is essential to successful emergency response and recovery. Ease of communication and sharing up-to-date, accurate information can save lives, protect property, and prevent an incident from becoming a disaster.

## Procurement Process

The Police Department and departments with non-public safety field staff will need to purchase EBRCSA-compatible radios. In 2009, Contra Costa County issued a Request for Quotes for P-25, 700/800 MHz portable and mobile radios compatible with the needs of EBRCSA subscribers. From that competitive RFQ process, in which seven quotes were received and evaluated by Contra Costa County staff, Motorola was selected to provide radio units to EBRCSA subscribers. In 2012, the authorization for the RFQ was renewed. All EBRCSA subscribers, including every public safety agency in the county besides Hayward Police Department, has purchased EBRCSA-capable radios via the RFQ.

## DISCUSSION

In order to begin Phase 3 of EBRCSA implementation, the City must replace the aging, non-EBRCSA compatible communications equipment in the Police Department and equip non-

public safety field personnel with EBRCSA-compatible radios. The number of units needed to fully equip each department is listed in **Table 1** below.

**Table 1: Radios Needed**

Radios Needed		# of Units
Police Department		440
Mobile (Vehicle) Units	130	
Portable Units	310	
Non-Public Safety		80
Total		520

The total purchase cost for 520 radios, including accessories (including batteries, programming cables, handheld microphones, etc.), programming, and installation (for vehicle units) is \$2,529,926.60.

## FISCAL IMPACT

The fiscal impact to the City will include the one-time cost of purchasing, installing, and programming the new radio units as well as the cost of activating EBRCSA subscriptions for those units (see **Table 2** below).

**Table 2: Total One-Time Costs**

Total One-Time Costs	
Equipment Purchase	\$ 2,529,926.60
Interest (Optional)	\$ 34,560.82
Activation Fee	\$ 20,400.00
Total	\$ 2,584,887.42

Purchasing 510 units to fully equip the Police Department and non-public safety field personnel will cost \$2,529,926.60 and activating all of the radios on the EBRCSA system will cost \$20,400. Should the City exercise the option to defer repayment into the third year of the lease-purchase agreement, the balance will accrue an interest at a rate of 2.77%.

## Financing

Motorola has offered the City promotional financing for the purchase of radio units and associated equipment (e.g. batteries, programming cables), as well as the cost of radio installation and programming, over a three-year term. Under this lease-purchase agreement, the City would not be required to make payments on the units for two years and the balance would remain interest-free during that period. At the end of the second year, the City would be required to pay half the cost of the units. The remaining balance, plus a year's interest at 2.77%, would be due at the end of the third year of the agreement, at which point the City would own the radios.

The City could choose instead to pay the entire balance at or before the close of the second year of the contract to avoid paying interest, with no penalty for early repayment (see **Table 3** below).

**Table 3: Financing Options**

Financing Options	
Option 1 - Lump Sum at End of Year 2	\$ 2,529,926.60
Option 2 - Payments at End of Years 2 & 3	\$ 2,564,487.42
Option 1 Savings	\$ 34,560.82

Payment option 1 – repayment in a single installment – allows the City to avoid paying an additional \$34,561 in interest and avoids deferring payment into outlying budget years. Payment option 2 will spread the cost of repayment over two consecutive fiscal years. At this point in time, it is not necessary to decide on a plan for repayment, but taking action to authorize the agreement now preserves the option to defer payment. Staff will be returning to Council as part of the budget discussions during the next six months to determine the timing of repayment and the ultimate source of the funds. Motorola’s financing offer expires before the end of September. Staff wanted to take advantage of the two years of interest free financing to enable the Council to have a more robust and complete discussion about the source of funds for purchase of this critical public safety equipment in the context of the FY2018 budget preparation.

#### EBRCSA Activation Fee

EBRCSA requires an initial payment of \$200 per radio put into service on the system. In 2011, when Hayward first activated radios on the EBRCSA system, the City paid activation fees for 500 radios. Since that time, only 82 radios have been activated on the system. The remaining 418 pre-paid activation fees will be applied to the new radios, leaving 102 radios for which the activation fee has yet to be paid (see **Table 4** below).

**Table 4: EBRCSA One-Time Buy-In Fees**

EBRCSA One-Time Buy In Fees	# Units	Fee/Unit	Total
Police Department Units	440	\$200	\$88,000
Non-Public Safety Units	80	\$200	\$16,000
Fire Units (Added in 2011)	82	\$200	\$16,400
Paid in FY 12	(500)	\$200	\$(100,000)
Total Unfunded	102		\$20,400

In addition to the one-time cost of purchasing and activating the radio units, operating the units on the EBRCSA system will require paying a monthly subscription fee. EBRCSA charges subscribers to its interoperable system monthly subscription and maintenance fees to cover the cost of system operations, maintenance, and debt service. The total fees amount to \$40 per device per month, or \$480 per year. The City will not be charged this subscription fee until all units have been programmed to meet the City’s operational needs and be compatible with EBRCSA.

Currently, the Fire Department pays subscription and maintenance fees on 82 units. The 510 units that will be added to equip the Hayward Police Department and non-public safety field staff will bring the total fees to \$288,960 per year (see **Table 5** below).

Regular programming updates to ensure radio software remains compatible with communications equipment systemwide will cost approximately \$5 per radio per annum, or about \$3,000 in total.

**Table 5: Ongoing Annual Costs**

Ongoing (Annual) Costs	# of Units	Cost/Unit	Total
EBRCSA Subscription fee			\$180,600
Police	440	\$300	\$132,000
Fire	82	\$300	\$24,600
Non-PS	80	\$300	\$24,000
Maintenance			\$108,360
Police	440	\$180	\$79,200
Fire	82	\$180	\$14,760
Non-PS	80	\$180	\$14,400
Programming (estimated)			\$3,010
Police	440	\$5	\$2,200
Fire	82	\$5	\$410
Non-PS	80	\$5	\$400
Total			\$291,970

## Replacement Costs

The useful life of the radios is anticipated to be approximately ten years. Staff plans to request 10% of the cost of unit replacement in the Capital Improvement Program each year for the next ten years to fund replacement at the end of the units' useful life. This would be in addition to the ongoing costs identified in Table 5 above.

## NEXT STEPS

Upon Council approval, staff will continue to work with Motorola to negotiate and execute a Lease-Purchase Agreement and place an order for radios and accessories. Staff anticipates that radio installation will begin in December with HPD Support Services staff and expand to include patrol, detectives, and command staff. Radios and training will then be provided to field staff in Public Works, Utilities and Environmental Services, Maintenance Services, Building, Code Enforcement, and Information Technology. EBRCSA is anticipated to be fully implemented by Spring 2017.

Prepared by: Laurel James, Management Analyst

Recommended by: Garrett Contreras, Fire Chief

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

---

Kelly McAdoo, City Manager



HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A LEASE-PURCHASE AGREEMENT WITH MOTOROLA SOLUTIONS FOR MOBILE AND PORTABLE RADIOS AND ASSOCIATED EQUIPMENT NOT TO EXCEED \$2,600,000

WHEREAS, the Hayward Police Department's current communications system has exceeded its useful life and non-public safety field staff are not currently equipped with City-issued communication devices while in the field; and

WHEREAS, communication between City departments and other cities is crucial for successful response to a major emergency, including natural disasters; and

WHEREAS, the City of Hayward is a member of the East Bay Regional Communications System Authority, also known as EBRCSA, a Joint Powers Authority responsible for the developments, implementation, and funding of an interoperable communications system serving Alameda and Contra Costa County, all cities within those two counties, five special districts, the University of California, and the California Department of Transportation; and

WHEREAS, the Hayward Fire Department operates communications through EBRCSA and full transition to EBRCSA has been planned for the City as a whole since 2011; and

WHEREAS, participating in EBRCSA will increase Hayward's interoperability with other agencies and provide the City with a regional, secure, and interoperable public safety radio system; and

WHEREAS, Motorola was selected to supply radios to EBRCSA members through a competitive bidding process conducted by Contra Costa County; and

WHEREAS, Motorola has offered to enter into a three-year term lease-purchase agreement in which the financed balance will not accrue interest for the first two years of the agreement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that hereby authorizes and directs the City Manager to negotiate and execute a lease-purchase agreement with Motorola Solutions for mobile and portable radios and associated equipment not to exceed \$2,600,000, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES:           COUNCIL MEMBERS:  
                  MAYOR:

NOES:           COUNCIL MEMBERS:

ABSTAIN:       COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

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



**Quote Number:** QU0000375060

ATTACHMENT III

**Effective:** 01 SEP 2016

**Effective To:** 31 OCT 2016

**Bill-To:**

HAYWARD, CITY OF  
777 B ST  
HAYWARD, CA 94541-5007  
United States

**Attention:**

**Name:** Fire Chief Garrett Contreras  
**Email:** garrett.contreras@hayward-ca.gov

**Sales Contact:**

**Name:** Kevin Lincks  
**Email:** kevin@redcloudinc.com  
**Phone:** 5104280635

**Contract Number:** CONTRA COSTA COUNTY, (CA)

**Freight terms:** FOB Destination

**Payment terms:** Net 30 Due

Item	Quantity	Nomenclature	Description	Your price	Extended Price
1	310	H98UCF9PW6AN	APX6000 700/800 MODEL 2.5 PORTABLE	\$2,053.50	\$636,585.00
1a	310	Q887AT	5 YEAR SERVICE FROM THE START LITE	\$162.00	\$50,220.00
1b	310	Q806BM	ADD: ASTRO DIGITAL CAI OPERATION	\$386.25	\$119,737.50
1c	310	QA01768AA	ENH: ENHANCED ZONE BANK	\$56.25	\$17,437.50
1d	310	H38BT	ADD: SMARTZONE OPERATION	\$900.00	\$279,000.00
1e	310	Q361AR	ADD: P25 9600 BAUD TRUNKING	\$225.00	\$69,750.00
1f	310	QA00580AC	ADD: TDMA OPERATION	\$337.50	\$104,625.00
1g	310	H112KF	DEL: DELETE STANDARD ANTENNA	\$-7.50	\$-2,325.00
1h	310	H122BR	ALT: 1/4- WAVE 7/800 GPS STUBBY (NAR6595A)	\$18.00	\$5,580.00
2	310	NNTN8860A	CHARGER, SINGLE-UNIT, IMPRES 2, 3A, 115VAC, US/NA	\$120.00	\$37,200.00
3	45	NNTN8844A	CHARGER, MULTI-UNIT, IMPRES 2, 6-DISP, NA/LA-PLUG, ACC USB CHGR	\$1,000.00	\$45,000.00
4	310	PMMN4069A	IMPRES RSM, 3.5MM JACK, IP55	\$96.80	\$30,008.00
5	310	NNTN8092A	BATT IMP FM R LI ION 2300M 2350T BLK	\$113.60	\$35,216.00
6	126	M25URS9PW1AN	APX6500 7/800 MHZ MID POWER MOBILE	\$1,758.00	\$221,508.00
6a	126	W22BA	ADD: PALM MICROPHONE	\$54.00	\$6,804.00
6b	126	GA00318AC	ADD: 5 YEAR SERVICE FROM THE START LITE	\$246.00	\$30,996.00
6c	126	G442AJ	ADD: O5 CONTROL HEAD	\$324.00	\$40,824.00
6d	126	G67BC	ADD: REMOTE MOUNT MID POWER	\$222.75	\$28,066.50
6e	126	G806BE	ADD: ASTRO DIGITAL CAI OPERATION	\$386.25	\$48,667.50
6f	126	G444AE	ADD: APX CONTROL HEAD SOFTWARE	-	-
6g	126	G335AW	ADD: ANT 1/4 WAVE 762-870 MHZ	\$10.50	\$1,323.00
6h	126	B18CR	ADD: AUXILARY SPKR 7.5 WATT	\$45.00	\$5,670.00
6i	126	GA00235AA	ADD: NO GPS ANTENNA NEEDED	-	-
6j	126	G51AU	ENH: SMARTZONE OPERATION APX6500	\$900.00	\$113,400.00
6k	126	G361AH	ADD: P25 TRUNKING SOFTWARE	\$225.00	\$28,350.00
6l	126	GA00580AA	ADD: TDMA OPERATION	\$337.50	\$42,525.00
7	4	L30URS9PW1AN	APX7500 SINGLE BAND 7/800	\$3,284.25	\$13,137.00
7a	4	G90AC	ADD: NO MICROPHONE NEEDED	-	-

Item	Quantity	Nomenclature	Description	Your price	Extended Price
7b	4	L999AB	ADD: FULL FP W/05/KEYPAD/CLOCK/VU	\$591.75	\$2,367.00
7c	4	GA00318AB	ADD: 5 YEAR SERVICE FROM THE START LITE	\$319.00	\$1,276.00
7d	4	GA00244AA	ADD: 7/800MHZ PRIMARY BAND	-	-
7e	4	G806BE	ADD: ASTRO DIGITAL CAI OPERATION	\$386.25	\$1,545.00
7f	4	CA01598AB	ADD: AC LINE CORD US	-	-
7g	4	G51AT	ENH: SMARTZONE OPERATION APX	\$1,125.00	\$4,500.00
7h	4	QA01749AB	SW KEY SUPPLEMENTAL DATA	-	-
7i	4	G361AH	ADD: P25 TRUNKING SOFTWARE	\$225.00	\$900.00
7j	4	GA00580AA	ADD: TDMA OPERATION	\$337.50	\$1,350.00
8	4	DSMFBW7463	WIDEBAND FIBERGLASS OMNI ANTENNA 746-869 NFM BULKHEAD	\$223.17	\$892.68
9	4	DSMMK12	ANTENNA MOUNTING BRACKET	\$20.00	\$80.00
10	250	L1705A	LDF4-50A CABLE: 1/2" LDF HELIAX POLY JKT PER FOOT	\$3.50	\$875.00
11	8	TDN9289A	221213 CABLE WRAP WEATHERPROOFING	\$22.00	\$176.00
12	16	DDN1088A	L4TNM-PSA TYPE N MALE PS FOR 1/2 IN CABLE	\$25.65	\$410.40
13	4	DSGSAKITD	GROUND STRAP KIT - DIN	\$31.50	\$126.00
14	4	F2380A	MCD 5000 DESKSET	\$1,500.00	\$6,000.00
15	4	FHN7469A	MCD 5000 DESKSET / RGU POWER SUPPLY WITH USA POWER CORD	\$100.00	\$400.00
16	6	TDN1114A	ETHERNET CABLE 100'	\$38.70	\$232.20
17	1	FVN5847A	MCD 5000 DESKSET SYSTEM CONFIG TOOL - SYSTEM W/OUT OMC	\$250.00	\$250.00
18	4	FHN7470A	MCD 5000 DESKSET HEADSET JACK BOX & CABLE	\$150.00	\$600.00
19	4	RLN6098A	HDST MODULE BASE W/PTT, 15' CBL	\$168.00	\$672.00
20	4	RMN5078B	SUPRAPLUS NC SINGLE MUFF HEADSET	\$119.20	\$476.80
21	2	F7979A	MCD 5000 DESKSET RADIO GATEWAY UNIT (RGU)	\$1,500.00	\$3,000.00
22	2	FHN7469A	MCD 5000 DESKSET / RGU POWER SUPPLY WITH USA POWER CORD	\$100.00	\$200.00
23	2	FTN7490A	ASSY.KIT,MCD 5000 DESKSET RGU RACK MT PNL PLUS SCREWS	\$128.00	\$256.00
24	2	CLN1856A	2620-24 ETHERNET SWITCH	\$1,800.00	\$3,600.00
25	4	FKN8704A	FRU: CABLE - MCD 5000 DESKSET RGU GROUND CABLE	\$30.00	\$120.00
26	80	H51UCF9PW6AN	APX 4000 7/800 MHZ MODEL 2 PORTABLE	\$1,429.50	\$114,360.00
26a	80	QA04865AA	ADD: TWO KNOB CONFIGURATION	-	-
26b	80	Q887AT	5 YEAR SERVICE FROM THE START LITE	\$162.00	\$12,960.00
26c	80	QA02756AB	ENH: 3600 OR 9600 TRUNKING BAUD SIN	\$1,177.50	\$94,200.00
26d	80	H842BJ	ADD: SINGLE UNIT PACKAGING	-	-
26e	80	QA00580AF	ADD: TDMA OPERATION	\$337.50	\$27,000.00
26f	80	H112KV	DEL: DELETE STANDARD ANTENNA	\$-7.50	\$-600.00
26g	80	H122BV	ALT: 1/4- WAVE 7/800 STUBBY (NAR659	\$18.00	\$1,440.00
27	80	NNTN8128BR	BATT IMPRES LIION 2000T	\$81.60	\$6,528.00
28	80	WPLN4232A	CHARGER, SINGLE-UNIT, IMPRES, 1.25A, 115VAC, US/NA	\$55.44	\$4,435.20

Estimated Tax Amount

\$229,993.32

**Total Quote in USD****\$2,529,926.60**

PREPARED BY KEVIN LINCKS. REFERENCE 2009 CONTRA  
COSTA COUNTY P25 SUBSCRIBER RADIO CONTRACT #  
0904-018

PO Issued to Motorola Solutions Inc. must:

>Be a valid Purchase Order (PO)/Contract/Notice to Proceed on Company Letterhead. Note: Purchase Requisitions cannot be accepted

>Have a PO Number/Contract Number & Date

>Identify "Motorola Solutions Inc." as the Vendor

>Have Payment Terms or Contract Number

>Be issued in the Legal Entity's Name

>Include a Bill-To Address with a Contact Name and Phone Number

>Include a Ship-To Address with a Contact Name and Phone Number

>Include an Ultimate Address (only if different than the Ship-To)

>Be Greater than or Equal to the Value of the Order

>Be in a Non-Editable Format

>Identify Tax Exemption Status (where applicable)

>Include a Signature (as Required)



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** CONS 16-548

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT**

Hayward Executive Airport Electrical Improvements Project - Award of Contract

**RECOMMENDATION**

That Council approves the attached resolution (Attachment II) authorizing an award of contract to St Francis Electric, Inc. for the Hayward Executive Airport Electrical Improvement Project.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Project Location Maps



DATE: September 13, 2016

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Hayward Executive Airport Electrical Improvements Project – Award of Contract

#### RECOMMENDATION

That Council approves the attached resolution (Attachment II) authorizing an award of contract to St Francis Electric, Inc. for the Hayward Executive Airport Electrical Improvement Project.

#### BACKGROUND

Hayward Executive Airport was originally constructed in 1941 by the U.S. Army Air Forces for military use during WWII. The airport property was transferred to the City in 1947 and renamed Hayward Municipal Airport. From 1946 until 1980, the 19.8-acre California Air National Guard (CANG) site was retained and used by various military aviation units. In 1980, the last remaining CANG unit was relocated to Moffett Field. In 2012, the Air National Guard conveyed a contingent release of the property to the City.

As the result of pollution from leaking underground fuel storage tanks and certain aircraft maintenance practices, various phases of environmental investigation and restoration of the site have been underway since 1991. In November 2008, a Record of Decision (ROD) was issued regarding efforts by the Air Force and the National Guard Bureau to mitigate the remaining environmental concerns. As described in the ROD, the National Guard Bureau has sought to meet or exceed conditions that allow for unrestricted use. According to a report issued in December 2014 by the National Guard Bureau, almost all soils with Total Petroleum Hydrocarbons impacts have been excavated to concentrations below residential remedial goals. On December 4, 2014, a “No Further Action Letter” was issued by the California Department of Toxic Substances Control (DTSC).

In order to complete the pollution mitigation project, one remaining area of contamination must be removed from underneath an existing electrical switchgear and transformer that provides electrical power to the entire 19.8-acre site. The switchgear was installed in the 1950s and is now obsolete. The switchgear must be physically removed and the cement pad it rests on must be demolished in order to excavate the contaminated soil. Due to the age of the switchgear and the absence of any replacement parts, once it is disassembled it

cannot be reused and electrical power will not be available to the site. There are currently three tenants on the site that require power, including a non-aviation unit of the California National Guard.

## DISCUSSION

The City is responsible for the removal of the switchgear and restoration of electrical power. Due to the impending expiration of the contract between CANG and Environmental Resource Management, Inc. to remediate the site, the City has been given a deadline of October 2016 to remove the switchgear and restore electrical power. Staff has been working with Pacific Gas & Electric to determine a cost-effective way to accomplish these tasks. On July 11, 2016, staff sent a request for proposals to three contractors: St Francis Electric Inc.; Columbia Electric, Inc.; and Power Plus. On August 10, 2016, two bids were received for the project. St Francis Electric, Inc. of San Leandro submitted the lowest bid in the amount of \$300,996.70 which is 24.8% below the engineer's estimate of \$400,000. Columbia Electric, Inc. of San Leandro submitted the second bid in the amount of \$420,000, which is 5% higher than the engineer's estimate. Power Plus declined to submit a bid for the project.

In order to meet the October compliance deadline and avoid possible penalties, including deed restrictions on airport property, staff (after consultations with the City Attorney's office and the Finance Director), directed St Francis Electric to proceed with the work in August once the contractor has provided the required insurance and bonding documents. Staff also recommends that Council formalize and approve the award.

## FISCAL IMPACT

Construction	\$301,000
Construction Contingencies	\$75,000
PG&E Service Connections	\$80,000
Administration, Inspection & Testing Services	\$44,000
TOTAL	\$500,000

The Adopted FY 2017 Capital Improvement Program includes \$500,000 for the project in the Airport Fund.

## SUSTAINABILITY FEATURES

Solid Waste: Pursuant to Council policy on sustainability, this project requires that all material generated during construction and demolition be sent to designated facilities for recycling.

## PUBLIC CONTACT

All tenants impacted by this project have been notified by Airport staff.



## SCHEDULE

Open Bids	August 10, 2016
Begin Work	September 2, 2016
Formal Award of Contract	September 13, 2016
Complete Work	October 28, 2016

Prepared by: Yaw Owusu, Assistant City Engineer

Recommended by: Morad Fakhrai, Director of Public Works

Approved by:



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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

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

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

RESOLUTION AWARDDING CONTRACT TO ST FRANCIS ELECTRIC, INC.,  
FOR THE HAYWARD EXECUTIVE AIRPORT ELECTRICAL  
IMPROVEMENTS PROJECT, PROJECT NO. 6825

WHEREAS, on July 11, 2016, staff solicited request for proposals from three contractors: St Francis Electric, Inc., Columbia Electric, Inc., and Power Plus; and

WHEREAS, on August 10, 2016, two bids were received ranging from \$300,996.70 to \$420,000; St Francis Electric of San Leandro, California submitted the lowest bid in the amount of \$300,996.70, which is 24.8% below the Engineer's Estimate of \$400,000;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that St Francis Electric, Inc. is the lowest responsible bidder whose bid complies with the specifications and is hereby awarded the construction contract for the Hayward Executive Airport Electrical Improvements Project, Project No. 06825, for the amount of \$375,996.70, including \$75,000 in construction contingencies; 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 \$500,000 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 St. Francis Electric, 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 \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

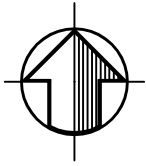
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

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



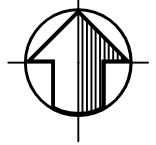
FORMER CALIFORNIA AIR  
NATIONAL GUARD HANGAR

CIVIL AIR PATROL  
BUILDING

CURTIS ST

W. WINTON AVE  
THUNDERBIRD  
PLACE

LOCATION MAP  
HAYWARD EXECUTIVE AIRPORT  
ELECTRICAL IMPROVEMENTS  
PROJECT NO. 06825



MERIDIAN  
AVIATION

CALIFORNIA NATIONAL  
GUARD BUILDING

MERIDIAN AVIATION  
LEASE LIMITS

TUSKEGEE DR

LOCATION OF  
EXISTING  
SWITCHGEAR

W. WINTON AVE

CLAWITER  
RD

LOCATION MAP  
HAYWARD EXECUTIVE AIRPORT  
ELECTRICAL IMPROVEMENTS  
PROJECT NO. 06825



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** CONS 16-549

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** Director of Human Resources

**SUBJECT**

Adoption of a Resolution Approving an Employment Agreement with the City Manager and Authorizing the Mayor to Execute the Agreement on Behalf of the Council

**RECOMMENDATION**

That the City Council adopts the attached Resolution authorizing an employment agreement between the City of Hayward and the City Manager and authorizing the Mayor to execute the agreement on behalf of the Council.

**ATTACHMENTS**

Attachment I Staff Report

Attachment II Resolution Approving an Agreement with the City Manager and Authorizing the Mayor to Execute the Agreement on Behalf of the City Council



DATE: September 13, 2016

TO: Mayor and City Council

FROM: Director of Human Resources

SUBJECT

Adoption of a Resolution Approving an Employment Agreement with the City Manager and Authorizing the Mayor to Execute the Agreement on Behalf of the Council

#### RECOMMENDATION

That the City Council adopts the attached Resolution authorizing an employment agreement between the City of Hayward and the City Manager and authorizing the Mayor to execute the agreement on behalf of the Council.

#### BACKGROUND/DISCUSSION

On July 26, 2016, the City Council expressed its confidence that Kelly McAdoo had demonstrated the ability and skills to effectively lead the City of Hayward organization and unanimously approved a Resolution to appoint Kelly McAdoo as the City Manager for the City of Hayward. Ms. McAdoo previously served as Hayward's Assistant City Manager since October 2010 and has over 17 years of experience in local government.

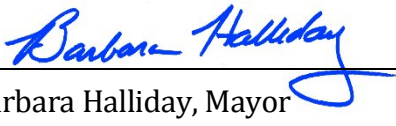
At the time of appointment, Council indicated that there was agreement as to basic employment terms, however more time was needed to review and discuss additional terms. The Council and Ms. McAdoo met over the recess and have reached agreement on the employment terms. Most employment terms remain the same as the previous City Manager's agreement, including cost sharing for benefits and retirement. Key differences between the agreement with Ms. McAdoo and that of the previous City Manager are 1) the Council requested and Ms. McAdoo has agreed to reside in the City of Hayward; and 2) the salary for the current City Manager is \$249,090, while the previous City Manager received \$257,300.

#### FISCAL IMPACT

The cost of the agreement with the City Manager is approved in the FY 2017 adopted budget. There will be an approximate annual savings to the General Fund of \$12,500.

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

Approved by:

  
\_\_\_\_\_  
Barbara Halliday, Mayor



HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

RESOLUTION APPROVING THE CITY MANAGER'S EMPLOYMENT  
AGREEMENT AND AUTHORIZING THE MAYOR TO EXECUTE THE  
AGREEMENT ON BEHALF OF THE COUNCIL

WHEREAS, the City Council unanimously approved a Resolution appointing Kelly McAdoo as City Manager on July 26, 2016; and

WHEREAS, the employment agreement includes additional CalPERS cost sharing in the amount of three percent (3%), and employee pays 20% medical and dental and 50% vision; and

WHEREAS, the City Council requested and Ms. McAdoo agreed to relocate to the City of Hayward.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Council hereby approves the City Manager's employment agreement on file in the office of the City Clerk, and authorizes the Mayor to execute the agreement on behalf of the City Council.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_

City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** LB 16-092

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** City Attorney

**SUBJECT**

Introduction of Ordinance Extending the Utilities Users Tax to June 30, 2039, as Authorized by Voters on June 7, 2016

**RECOMMENDATION**

That the City Council introduces an Ordinance re-enacting Article 18 of Chapter 8 of the Hayward Municipal Code regarding the Utilities Users Tax; and amending Section 8-18.260 thereof for the purpose of extending the Utility Users Tax from June 30, 2019 to June 30, 2039, per the approval of measure by the voters on June 7, 2016.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Proposed Ordinance
Attachment III	Chapter 8 Article 18 of the Hayward Municipal Code



DATE: September 13, 2016

TO: Mayor and City Council

FROM: City Attorney

SUBJECT

Introduction of Ordinance Extending the Utilities Users Tax to June 30, 2039, as Authorized by Voters on June 7, 2016

#### RECOMMENDATION

That the City Council introduces an Ordinance re-enacting Article 18 of Chapter 8 of the Hayward Municipal Code regarding the Utilities Users Tax; and amending Section 8-18.260 thereof for the purpose of extending the Utility Users Tax from June 30, 2019 to June 30, 2039, per the approval of measure by the voters on June 7, 2016.

#### SUMMARY

On June 7, 2016, Hayward voters approved Measure D which authorized the enactment of a new ordinance extending the Utility Users Tax (UUT) from June 30, 2019 to June 30, 2039. Sec. 8-18.260 of the Hayward Municipal Code specifically requires a new ordinance to effect such extension. Attachment II is the proposed ordinance extending the UUT, as directed by the voters. Attachment III is the entire article relating to the UUT, Chapter 8, Article 18 of the Hayward Municipal Code.

#### BACKGROUND AND DISCUSSION

In May, 2009, Hayward voters approved Measure A, which enacted a Utility Users Tax (Ordinance No. ME-09-01, codified as Hayward Municipal Code Article 18 of Chapter 8). By its terms, Measure A established a ten-year sunset, June 30, 2019. Sec. 8-18.260 of the Hayward Municipal Code, provides as follows:

The levy of taxes as provided in this Article shall expire on June 30, 2019, unless re-enacted by a separate ordinance of the City Council following a majority vote of the electorate. The termination of the levy of taxes as provided herein shall not terminate the obligation to pay taxes levied on services used prior to such date. Taxes levied prior to June 30, 2019, shall remain a debt payable to the City. All provisions of this Article, except those relating to the levy of taxes, shall continue in full force and effect after such date.' (emphasis added)

The Utility Users Tax is a general tax, requiring a simple majority voter approval. On June 7, 2016, Hayward voters approved the extension, 17,271 in favor of the extension and 6,283 against the extension. Pursuant to the will of the voters, the attached proposed ordinance extends the life of the Utility Users Tax from June 30, 2019 to June 30, 2039. There are no other changes to the Tax ordinance.

#### FISCAL AND ECONOMIC IMPACT

The Utility Users Tax is now the City's third largest revenue source, generating approximately \$16 million annually to fund critical public safety and other services paid for from the General Fund. The approval of Measure D by Hayward voters secures this local revenue source for an additional twenty years and provides much needed stability for the City's finances.

#### PUBLIC CONTACT

Measure D, presented to Hayward voters on June 7, 2016, and approved by a vote of 17,271 in favor of the extension and 6,283 against the extension serves as the outreach supportive of the recommendation.

#### NEXT STEPS

If introduced on September 13, 2016, and adopted on September 20, 2016, the amendment to the Hayward Municipal Code would be effective immediately. Per City Charter sec. 620 (c), tax ordinances are effectively immediately upon adoption. The twenty-year extension of the UUT would go into effect upon the expiration of the current tax in June 2019.

Prepared by: Michael S. Lawson, City Attorney

Approved by:



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Kelly McAdoo, City Manager

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF HAYWARD  
RE-ENACTING ARTICLE 18 OF CHAPTER 8 OF  
THE HAYWARD MUNICIPAL CODE REGARDING  
THE UTILITY USERS TAX; AND AMENDING SEC. 8-18.260  
THEREOF FOR THE PURPOSE OF EXTENDING THE  
UTILITY USERS TAX FROM JUNE 30, 2019 TO  
JUNE 30, 2039, PER THE APPROVAL OF MEASURE  
BY THE VOTERS ON JUNE 7, 2016

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HAYWARD  
AS FOLLOWS:

Section 1. Re-Enactment of Article 18 of Chapter 8 of the Hayward Municipal Code:

Article 18, Chapter 8 of the Hayward Municipal Code is hereby re-enacted in its entirety, with the exception of sec. 8-18.260.

Section 2. Amendment of Sec. 8-18.260 of the Hayward Municipal Code:

“Section 8-18.260 TERMINATION OF UTILITY USERS TAX: The levy of taxes as provided in this Article shall expire on June 30, 2039, unless re-enacted by a separate ordinance of the City Council following a majority vote of the electorate. The termination of the levy of taxes as provided herein shall not terminate the obligation to pay taxes levied on services used prior to such date. Taxes levied prior to June 30, 2039, shall remain a debt payable to the City. All provisions of this Article, except those related to the levy of taxes, shall continue in full force and effect after such date.”

Section 3. Severability. Should any part of this Ordinance be declared by a final decision of 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 4. Effective Date. This Ordinance shall become effective immediately upon its adoption, per City Charter sec. 620(c), as it is a tax ordinance.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the \_\_\_\_ day of \_\_\_\_, 2016, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

ARTICLE 18

UTILITY USERS TAX

<u>Section</u>	<u>Subject Matter</u>
8-18.10	SHORT TITLE
8-18.20	DEFINITIONS
8-18.30	CONSTITUTIONAL, STATUTORY, AND OTHER EXEMPTIONS
8-18.40	LOW INCOME AND LIFELINE EXEMPTIONS
8-18.50	TELECOMMUNICATION USERS TAX
8-18.60	VIDEO USERS TAX
8-18.70	ELECTRICITY USERS TAX
8-18.80	GAS USERS TAX
8-18.90	COLLECTION OF TAX FROM SERVICE USERS RECEIVING DIRECT PURCHASE OF GAS OR ELECTRICITY
8-18.100	BUNDLING TAXABLE ITEMS WITH NON-TAXABLE ITEMS
8-18.110	SUBSTANTIAL NEXUS/MINIMUM CONTACTS
8-18.120	DUTY TO COLLECT - PROCEDURES
8-18.130	COLLECTIONS PENALTIES - SERVICE SUPPLIERS
8-18.140	ACTIONS TO COLLECT
8-18.150	DEFICIENCY DETERMINATION AND ASSESSMENT-TAX APPLICATION ERRORS
8-18.160	ADMINISTRATIVE REMEDY - NON-PAYING SERVICE USERS

8-18.170                    ADDITIONAL POWERS AND DUTIES OF THE TAX  
ADMINISTRATOR

<u>Section</u>	<u>Subject Matter</u>
8-18.180	RECORDS
8-18.190	REFUNDS
8-18.200	APPEALS
8-18.210	NO INJUNCTION/WRIT OF MANDATE
8-18.220	NOTICE OF CHANGES TO ORDINANCE
8-18.230	EFFECT OF STATE AND FEDERAL REFERENCE /AUTHORIZATION
8-18.240	INDEPENDENT AUDIT OF TAX COLLECTION, EXEMPTION, REMITTANCE, AND EXPENDITURE
8-18.250	REMEDIES CUMULATIVE
8-18.260	TERMINATION OF UTILITY USERS TAX



ARTICLE 18

UTILITY USERS TAX

SEC. 8-18.10 SHORT TITLE. This Article shall be known as the “Utility Users Tax Ordinance” of the City of Hayward.

SEC. 8-18.20 DEFINITIONS. The following words and phrases whenever used in this Article shall be construed as defined in this Section.

(a) “Ancillary Telecommunication Services” means services that are associated with or incidental to the provision, use or enjoyment of telecommunications services, including but not limited to, the following services:

(1) “Conference Bridging Service” means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

(2) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

(3) “Directory Assistance” means an ancillary service of providing telephone number information, and/or address information.

(4) “Vertical Service” means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

(5) “Voice Mail Service” means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(b) “Ancillary Video Services” means services that are associated with or incidental to the provision or delivery of video services, including but not limited to electronic program guide services, search functions, recording services, interactive services or other communications services that are associated with or incidental to the provision, use or enjoyment of video services.

(c) “Billing Address” shall mean the mailing address of the service user where the service supplier submits invoices or bills for payment by the customer.

(d) “City” shall mean the City of Hayward.

### ATTACHMENT III

(e) “Gas” shall mean natural or manufactured gas or any alternate fuel which may be substituted therefore currently or in the future.

(f) “Mobile Telecommunications Service” has the meaning and usage as set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C.A. Section 124) and the regulations thereunder.

(g) “Month” shall mean calendar month.

(h) “Non-Utility Service Supplier” means:

(1) A service supplier, other than a supplier of electric distribution service to all or a significant portion of the City, which generates electricity for sale to others, and shall include, but is not limited to, any publicly-owned electric utility, investor-owned utility, cogenerator, distributed generation provider, exempt wholesale generator, (15 U.S.C.A. Section 79Z-5a), municipal utility district, federal power marketing agency, electric rural cooperative, or other supplier or seller of electricity; or

(2) An electric service provider (ESP), electricity broker, marketer, aggregator, pool operator, or other electricity supplier other than a supplier of electric distribution services to all or a significant portion of the City, which sells or supplies electricity or supplemental services to electricity users within the City; or

(3) A gas service supplier, aggregator, marketer or broker, other than a supplier of gas distribution services to all or a significant portion of the City, which sells or supplies gas or supplemental services to gas users within the City.

(i) “Paging Service” means a “telecommunications service” that provides transmission of coded radio signals for the purpose of activating specific pagers or similar reception devices, whether such transmissions include message and/or sounds.

(j) “Person” shall mean without limitation, any natural individual, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation, (including foreign, domestic, and non-profit), municipal district or municipal corporation (other than the City), cooperative, or receiver, trustee, guardian, or other representative appointed by order of any court, or any other entity.

(k) “Place of Primary Use” means the street address representative of where the customer’s use of the telecommunications service primarily occurs, whether the residential street address or the primary business street address of the customer.

(l) “Post-paid Telecommunication Service” means the telecommunication service obtained by making a payment on a telecommunication-by-telecommunication basis whether

### ATTACHMENT III

through the use of a credit card or any other payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a service number which is not associated with the origination or termination of the telecommunication service.

(m) “Prepaid Telecommunication Service” means the right to access telecommunication services, which must be paid for in advance and which enables the origination of

telecommunications services and that is sold in predetermined units or dollars of which the number declines with use.

(n) “Private Telecommunication Service” means a telecommunication service that entitles the customer to exclusive or priority use of a telecommunications channel or limited group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

(o) “Service Address” shall mean the residential street address or the business street address of the service user. For a telecommunication or video service user, “service address” means either:

(1) The location of the service user’s telecommunication or video equipment from which the communication originates or terminates, regardless of where the communication is billed or paid; or

(2) If the location in subsection (1) of the definition is unknown or mobile (e.g., mobile telecommunications service or VoIP service), the service address shall mean the location of the service user’s place of primary use; or

(3) For prepaid telecommunication service, “service address” shall mean the location associated with the service number.

(p) “Service Supplier” shall mean any person and/or the City, that provides any service subject to any tax hereunder, including, without limitation, telecommunication, video, electric and/or, gas service, to a user of such service within the City.

(q) “Service User” shall mean a person required to pay a tax imposed under the provisions of this Article.

(r) “State” shall mean the State of California.

(s) “Streamlined Sales and Use Tax Agreement” shall mean the multi-state agreement commonly known and referred to the Streamlined Sales and Use Tax Agreement, and as it is amended from time to time.

(t) “Tax Administrator” means the Finance Director of the City or his or her designee.

### ATTACHMENT III

(u) “Telecommunications Channel” is a physical or virtual path of telecommunications over which signals are transmitted between or among customer channel termination points (i.e., the location where the customer either inputs or receives the telecommunications).

(v) “Telecommunications Services” means the transmission, conveyance, or routing of voice, data, audio, video, or any other information of signals to a point, or between or among points, whatever the technology used. The term “telecommunications services” includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code

or protocol of the content for purposes of transmission, conveyance or routing, without regard to whether such services are referred to as voice over internet protocol (VoIP) services or are classified by the Federal Telecommunications Commission as enhanced or value added, and includes video and/or data services that are functionally integrated with “telecommunications services”.

“Telecommunications services” include, but are not limited to, the following services, regardless of the manner or basis on which such services are calculated or billed: ancillary telecommunication services; mobile telecommunication service; prepaid telecommunication services; post-paid telecommunications services; private telecommunication services; paging service; 800 service (or any other toll-free numbers designated by the Federal Telecommunication Commission); 900 service (or any other similar numbers designated by the Federal Telecommunications Commission for services whereby subscribers call in to pre-recorded or live service).

(w) “Video Programming” means those programming services commonly provided to subscribers by a “video service supplier”, including, but not limited to, basic services, premium services, audio services, video games, pay-per-view services, video on demand, origination programming, or any other similar services, regardless of the content of such video programming, or the technology used to deliver such services, and regardless of the manner or basis on which such services are calculated or billed.

(x) “Video Services” means “video programming” and any and all services related to the providing, recording, delivering, use or enjoyment of “video programming” (including origination programming and programming using Internet Protocol, e.g., IP-TV and IP-Video) using one or more channels by a “video service supplier”, regardless of the technology used to deliver, store or provide such services, and regardless of the manner or basis on which such services are calculated or billed, and includes ancillary video services, data services, “telecommunications services”, or interactive communication services that are functionally integrated with “video services”.

(y) “Video Service Supplier” means any person, company, or service which provides or sells one or more channels, programs or individual episodes of video programming, or provides or sells the capability to receive one or more channels, programs or individual episodes of video programming, including any telecommunications that are ancillary, necessary or common to the provision, use or enjoyment of the video programming, to or from a business or residential address in the City, where some fee is paid, whether directly or included in dues or rental charges for that service, whether or not public rights-of-way are utilized in the delivery of the video programming or telecommunications. A “video service supplier” includes, but is not limited to, multichannel video

### ATTACHMENT III

programming distributors [as defined in 47 U.S.C.A. Section 522(13)]; open video systems (OVS) suppliers; and suppliers of cable television or video program delivery of any kind, be it through channel or other subscribers or to individual buyers of programs or unique episodes; master antenna television; satellite master antenna television; multichannel multipoint distribution services (MMDS); video services using internet protocol (e.g., IP-TV and IP-Video, which provide, among other things, broadcasting and video on demand), direct broadcast satellite to the extent federal law permits taxation of its video services, now or in the future; and other suppliers of video services (including two-way communications), whatever their technology.

(z) VoIP (voice over internet protocol) means the digital process of making and receiving real-time voice transmissions over any Internet Protocol network.

(aa) “800 Service” means “telecommunications service” that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name “800”, “855”, “866”, “877”, and “888” toll-free calling and includes any subsequent numbers or other designations designated by the Federal Communications Commission for toll free telecommunications services.

(bb) “900 Service” means an inbound toll “telecommunications service” purchased by a subscriber that allows the subscriber’s customers to call in to the subscriber’s prerecorded announcement or a live service. “900 Service” does not include the charge for: collection services provided by the seller of the “telecommunications services” to the subscriber, or service or product sold by the subscriber to the subscriber’s customer. The service is typically marketed under the name “900” service, and includes any subsequent numbers or other designations designated by the Federal Communications Commission for pay for services calls.

### SEC. 8.18-30 CONSTITUTIONAL, STATUTORY AND OTHER EXEMPTIONS.

(a) Nothing in this Article shall be construed as imposing a tax upon any person or service when the imposition of such tax upon such person or service would be in violation of a federal or state statute, the Constitution of the United States or the Constitution of the State.

(b) Any service user that is exempt from the tax imposed by this Article pursuant to subsection (a) of this Section shall file an application with the Tax Administrator for an exemption; provided, however, this requirement shall not apply to a service user that is a state or federal agency or subdivision with a commonly recognized name for such service. Said application shall be made upon a form approved by the Tax Administrator and shall state those facts, declared under penalty of perjury, which qualify the applicant for an exemption, and shall include the names of all utility service suppliers serving that service user. If deemed exempt by the Tax Administrator, such service user shall give the Tax Administrator timely written notice of any change in utility service suppliers so that the Tax Administrator can properly notify the new utility service supplier of the service user’s tax exempt status. A service user that fails to comply with this Section shall not be entitled to a refund of utility user’s taxes collected and remitted to the Tax Administrator from such service user as a result of such noncompliance.

The decision of the Tax Administrator may be appealed pursuant to Section 8-18.200 of this Article. Filing an application with the Tax Administrator and appeal to the City Manager pursuant to Section 8-18.200 of this Article is a prerequisite to a suit thereon.

SEC. 8-18.40 LOW INCOME AND LIFELINE EXEMPTION.

(a) Each household within the City, in respect to which the annual income of such household is less than fifty percent (50%) of the median family income for the County of Alameda, as most recently established by the United States Department of Housing and Urban Development, is and shall be exempt from each and all of the taxes imposed by this Article upon presentation to the Tax Administrator of a written request for such exemption and reasonable proof of qualification for the exemption.

(b) Any service user who is enrolled in the California Public Utilities Commission's Lifeline Telephone Program, also known as Universal Lifeline Telephone Service (ULTS), is and shall be exempt from the tax imposed for telecommunication services under Section 8-18.50 of this Article, upon presentation to the Tax Administrator of written confirmation of enrollment in the Lifeline/ULTS program. The service user seeking the exemption under this subsection must reside at the location receiving the service. The exemption shall not apply to any nonresidential service location.

(c) The Tax Administrator shall, within 60 days of receipt of an application for exemption, determine whether the exemption is granted, and if so, notify the service supplier. The exemption shall apply from the date of the Tax Administrator's determination that the household qualifies.

(d) The exemption granted to a person pursuant to this Section shall become effective on the beginning of the first regular billing period which commences after the Tax Administrator has notified the service supplier that an exemption has been granted. Upon a showing of hardship by a service supplier, including the City, the Tax Administrator may, as an alternative, implement this Section 8-18.40 by requiring the exempt person to pay the tax and seek a refund under Section 8-18.190. The Tax Administrator shall provide a refund claim form for this purpose.

(e) The Tax Administrator, in his or her sole discretion, may require annual written verification from the service user of his or her continuing eligibility for any exemption granted under this Section.

SEC. 8-18.50 TELECOMMUNICATION USERS TAX.

(a) There is hereby imposed a tax upon every person in the City using telecommunication services. The tax imposed by this Section shall be at the rate of five and one-half percent (5.5%) of the charges made for such services and shall be collected from the service user by the telecommunication service supplier or its billing agent. There is a rebuttable

### ATTACHMENT III

presumption that telecommunication services which are billed to a billing or service address in the City, are used in whole or in part, within the City's boundaries, and such services are subject to taxation under this Article. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax. As used in this Section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the telecommunication services.

(b) "Mobile Telecommunications Service" shall be sourced in accordance with the sourcing rules set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C.A. Section 124). The Tax Administrator may issue and disseminate to telecommunication service suppliers which are subject to the tax collection requirements of this Article, sourcing rules for the taxation of other telecommunication services, including, but not limited to, post-paid telecommunications services and prepaid telecommunication services consistent with federal and state constitutional provisions. In promulgating any sourcing rules hereunder, the Tax Administrator shall take into account, but shall not be legally bound by, custom and common practice that furthers administrative efficiency and minimizes taxation by more than one state of the same service usage, commonly referred to as multi-jurisdictional taxation. In doing so, the Tax Administrator may refer to and/or rely upon the Streamlined Sales and Use Tax Agreement, and/or any other reasonable precedent or resource.

(c) The Tax Administrator may issue and disseminate to telecommunication service suppliers, which are subject to the tax collection requirements of this Article, an administrative ruling identifying those telecommunication services, or charges therefore, that are subject to the tax of subsection (a) above.

(d) As used in this Section, charges for telecommunication services included in calculation of the tax shall include, but are not limited to, charges for: connection, reconnection, termination, movement, or change of telecommunication services; late payment fees; detailed billing, central office and custom calling features (including, but not limited to, call waiting, call forwarding, caller identification and three-way calling); voice mail and other messaging services; directory assistance; access and line charges; universal service charges; regulatory, administrative and other cost recovery charges; and local number portability charges. "Telecommunications services" shall not include digital downloads that are not "ancillary telecommunications services", such as books, music, ringtones, games and similar digital products.

(e) To prevent actual multi-jurisdictional taxation of the telecommunication services subject to tax under this Section, any service user, upon proof to the Tax Administrator that the service user has previously paid the same tax in another state or local jurisdiction on such telecommunication services, shall be allowed a credit against the tax imposed to the extent of the amount of such tax legally imposed in such other state or local jurisdiction; provided, however, the amount of credit shall not exceed the tax owed to the City under this Section.

(f) The tax on telecommunication services imposed by this Section shall be collected from the service user by the service supplier. The amount of tax collected in one (1) month shall be

remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20<sup>th</sup>) day of the following month.

SEC. 8.18-60 VIDEO USERS TAX.

(a) There is hereby imposed a tax upon every person in the City using video services. The tax imposed by this Section shall be at the rate of five and one-half percent (5.5 %) of the charges made for such services and shall be collected from the service user by the video service supplier or its billing agent. There is a rebuttable presumption that video services which are billed to a billing or service address in the City are used, in whole or in part, within the City's boundaries, and such services are subject to taxation under this Article. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax.

(b) As used in this section, the term "charges" shall include, but is not limited to, charges for the following:

- (1) Regulatory fees and surcharges, franchise fees and access fees (PEG);
- (2) Initial installation of equipment necessary for provision and receipt of video services;
- (3) Late fees, collection fees, bad debt recoveries, and return check fees;
- (4) Activation fees, reactivation fees, and reconnection fees;
- (5) Video programming and video services;
- (6) Ancillary video programming services (e.g., electronic program guide services, search functions, recording functions, or other interactive services or communications that are ancillary, necessary or common to the use or enjoyment of the video services);
- (7) Equipment leases (e.g., remote, recording and/or search devices; converters); and
- (8) Service calls, service protection plans, name changes, changes of services, and special services.

(c) As used in this Section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the video services.

(d) The Tax Administrator may issue and disseminate to video service suppliers, which are subject to the tax collection requirements of this Article, an administrative ruling identifying



those video services, or charges therefore, that are subject to or not subject to the tax of subsection (a) above.

(e) The tax imposed by this Section shall be collected from the service user by the video service supplier, its billing agent, or a reseller of such services. In the case of video service, the service user shall be deemed to be the purchaser of the bulk video service (e.g., an apartment owner), unless such service is resold to individual users, in which case the service user shall be the ultimate purchaser of the video service. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20<sup>th</sup>) day of the following month.

#### SEC. 8-18.70 ELECTRICITY USERS TAX.

(a) There is hereby imposed a tax upon every person using electricity in the City. The tax imposed by this Section shall be at the rate of five and one-half percent (5.5 %) of the charges made for such electricity, and for any supplemental services or other associated activities directly related to and/or necessary for the provision of electricity to the service user, which are provided by a service supplier or non-utility service supplier to a service user. The tax shall be collected from the service user by the service supplier or non-utility service supplier, or its billing agent.

(b) As used in this Section, the term “charges” shall apply to all services, components and items that are: i) necessary for or common to the receipt, use or enjoyment of electric service; or, ii) currently are or historically have been included in a single or bundled rate for electric service by a local distribution company to a class of retail customers. The term “charges” shall include, but

is not limited to, the following charges:

- (1) Energy charges;
- (2) Distribution charges or transmission charges;
- (3) Metering charges;
- (4) Stand-by, reserves, firming, ramping, voltage support, regulation, emergency, or other similar charges for supplemental services to self-generation service users;
- (5) Customer charges, late charges, service establishment or reestablishment charges, demand charges, fuel or other cost adjustments, power exchange charges, independent system operator (ISO) charges, stranded investment or competitive transition charges (CTC), public purpose program charges, nuclear decommissioning charges, trust transfer amounts (bond financing charges), franchise fees, franchise surcharges, annual and monthly charges, and other charges, fees or surcharges which are necessary for or common to the receipt, use or enjoyment of electric service; and

- (6) Charges, fees, or surcharges for electricity services or programs which are mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing.

(c) As used in this Section, the term “charges” shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the electricity or services related to the provision of such electricity.

(d) The Tax Administrator, from time to time, may survey the electric service suppliers to identify the various unbundled billing components of electric retail service that they commonly provide to residential and commercial/industrial customers in the City, and the charges therefore, including those items that are mandated by state or federal regulatory agencies as a condition of providing such electric service. The Tax Administrator, thereafter, may issue and disseminate to such electric service suppliers an administrative ruling identifying those components and items which are: i) necessary for or common to the receipt, use or enjoyment of electric service; or, ii) currently are or historically have been included in a single or bundled rate for electric service by a local distribution company to a class of retail customers. Charges for such components and items shall be subject to the tax of subsection (a) above.

(e) As used in this Section, the term “using electricity” shall not include the mere receiving of such electricity by an electrical corporation or governmental agency at a point within the City for resale.

(f) The tax on electricity provided by self-production or by a non-utility service supplier not under the jurisdiction of this Article shall be collected and remitted in the manner set forth in Section 8-18.90 of this Article. All other taxes on charges for electricity imposed by this Section

shall be collected from the service user by the electric service supplier or its billing agent. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20<sup>th</sup>) day of the following month; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user, which must be received by the Tax Administrator on or before the twentieth (20<sup>th</sup>) day of the following month, provided that such person shall submit an adjusted payment or request for credit, as appropriate, within sixty (60) days following each calendar quarter. The credit, if approved by the Tax Administrator, may be applied against any subsequent remittance that becomes due.

SEC. 8-18.80 GAS USERS TAX.

(a) There is hereby imposed a tax upon every person using gas in the City, which is transported and delivered through a pipeline or by mobile transport. The tax imposed by this

### ATTACHMENT III

Section shall be at the rate of five and one-half percent (5.5 %) of the charges made for such gas, including all services related to the storage, transportation and delivery of such gas. The tax shall be collected from the service user by the service supplier or non-utility service supplier, or its billing agent, and shall apply to all uses of gas, including but not limited to, heating, electricity generation, and the use of gas as a component of a manufactured product.

(b) As used in this Section, the term “charges” shall apply to all services, components and items for gas service that are: i) necessary for or common to the receipt, use or enjoyment of gas service; or, ii) currently are or historically have been included in a single or bundled rate for gas service by a local distribution company to a class of retail customers. The term “charges” shall include, but is not limited to, the following charges:

- (1) The commodity charges for purchased gas, or the cost of gas owned by the service user (including the actual costs attributed to drilling, production, lifting, storage, gathering, trunkline, pipeline, and other operating costs associated with the production and delivery of such gas), which is delivered through a gas pipeline distribution system;
- (2) Gas transportation charges (including interstate charges to the extent not included in commodity charges);
- (3) Storage charges; provided, however, that the service supplier shall not be required to apply the tax to any charges for gas storage services when the service supplier cannot, as a practical matter, determine the jurisdiction where such stored gas is ultimately used; but it shall be the obligation of the service user to self-collect the amount of tax not applied to any charge for gas storage by the service supplier and to remit the tax to the appropriate jurisdiction;
- (4) Capacity or demand charges, late charges, service establishment or reestablishment charges, transition charges, customer charges, minimum charges, annual and monthly charges, and any other charges which are necessary for or common to the receipt, use or enjoyment of gas service; and
- (5) Charges, fees, or surcharges for gas services or programs which are mandated by the California Public Utilities Commission or the Federal Energy Regulatory Commission, whether or not such charges, fees, or surcharges appear on a bundled or line item basis on the customer billing.

(c) As used in this Section, the term “charges” shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the gas or services related to the delivery of such gas.

(d) The Tax Administrator, from time to time, may survey the gas suppliers to identify the various unbundled billing components of gas retail service that they commonly provide to residential and commercial/industrial customers in the City, and the charges therefor, including

### ATTACHMENT III

those items that are mandated by state or federal regulatory agencies as a condition of providing such gas service. The Tax Administrator, thereafter, may issue and disseminate to such gas service suppliers an administrative ruling identifying those components and items which are: i) necessary for or common to the receipt, use or enjoyment of gas service; or, ii) currently are or historically have been included in a single or bundled rate for gas service by a local distribution company to a class of retail customers. Charges for such components and items shall be subject to the tax of subsection (a) above.

(e) There shall be excluded from the calculation of the tax imposed in this Section, charges made for gas which is to be resold and delivered through a pipeline distribution system.

(f) The tax on gas provided by self-production or by a non-utility service supplier not under the jurisdiction of this Article shall be collected and remitted in the manner set forth in Section 8-18.90 of this Article. All other taxes on charges for gas imposed by this Section shall be collected from the service user by the gas service supplier or its billing agent. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the twentieth (20<sup>th</sup>) day of the following month; or, at the option of the person required to collect and/or remit the tax, such person shall remit an estimated amount of tax measured by the tax billed in the previous month or upon the payment pattern of the service user, which must be received by the Tax Administrator on or before the twentieth (20<sup>th</sup>) day of the following month, provided that such person shall submit an adjusted payment or request for credit, as appropriate, within sixty (60) days following each calendar quarter. The credit, if approved by the Tax Administrator, may be applied against any subsequent remittance that becomes due.

#### SEC. 8-18.90 COLLECTION OF TAX FROM SERVICE USERS RECEIVING DIRECT PURCHASE OF GAS OR ELECTRICITY.

(a) Any service user subject to the tax imposed by Section 8-18.70 or by Section 8-18.80 of this Article, which produces gas or electricity for self-use; which receives gas or electricity, including any related supplemental services, directly from a non-utility service supplier not under the jurisdiction of this Article; or which, for any other reason, is not having the full tax collected and remitted by its service supplier, a non-utility service supplier, or its billing agent on the use of gas or electricity in the City, including any related supplemental services, shall report said fact to the Tax Administrator and shall remit the tax due directly to the Tax Administrator within thirty (30) days of such use, based on the charges for, or value of, such gas or electricity, or supplemental services, as

provided in subsection (b). In lieu of paying said actual tax, the service user may, at its option, remit to the Tax Administrator within thirty (30) days of such use an estimated amount of tax measured by the tax billed in the previous month, or upon the payment pattern of similar customers of the service supplier using similar amounts of gas or electricity, provided that the service user shall submit an adjusted payment or request for credit, as appropriate, within sixty (60) days following each calendar quarter. The credit, if approved by the Tax Administrator in writing, may be applied against any subsequent tax bill that becomes due.

(b) The Tax Administrator may require said service user to identify its non-utility service

### ATTACHMENT III

supplier, and otherwise provide, subject to audit: invoices; books of account; or other satisfactory evidence documenting the quantity of gas or electricity used, including any related supplemental services, and the cost or price thereof. If the service user is unable to provide such satisfactory evidence, or if the administrative cost of calculating the tax in the opinion of the Tax Administrator is excessive, the Tax Administrator may determine the tax by applying the tax rate to the equivalent charges the service user would have incurred if the gas or electricity used, including any related supplemental services, had been provided by the service supplier that is the primary supplier of gas or electricity within the City. Rate schedules for this purpose shall be available from the City.

#### SEC. 8-18.100 BUNDLING TAXABLE ITEMS WITH NON-TAXABLE ITEMS.

If any nontaxable charges are combined with and not separately stated from taxable service charges on the customer bill or invoice of a service supplier, the combined charge is subject to tax unless the service supplier identifies, by reasonable and verifiable standards, the portions of the combined charge that are nontaxable and taxable through the service supplier's books and records kept in the regular course of business, and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. The service supplier has the burden of proving the proper apportionment of taxable and non-taxable charges. If the service supplier offers a combination of taxable and non-taxable services, and the charges are separately stated, then for taxation purposes, the values assigned the taxable and non-taxable services shall be based on its books and records kept in the regular course of business and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. The service supplier has the burden of proving the proper valuation of the taxable and non-taxable services.

#### SEC. 8-18.110 SUBSTANTIAL NEXUS/MINIMUM CONTACTS.

For purposes of imposing a tax or establishing a duty to collected and remit a tax under this Article, "substantial nexus" and "minimum contacts" shall be construed broadly in favor of the imposition, collection and/or remittance of the utility users tax to the fullest extent permitted by state and federal law, and as it may change from time to time by judicial interpretation or by statutory enactment. Any telecommunication service (including VoIP) used by a person with a service address in the City, which service is capable of terminating a call to another person on the general telephone network, shall be subject to a rebuttable presumption that "substantial nexus/minimum contacts" exists for purposes of imposing a tax or establishing a duty to collect and remit a tax, under this Article. A service supplier shall be deemed to have sufficient activity in the City for tax collection and remittance purposes if its activities include, but are not limited to, any of the following: maintains or has within the City, directly or through an agent, affiliate, or subsidiary, a place of business of any nature; solicits business in the City by employees, independent

contractors, resellers, agents or other representatives; solicits business in the City on a continuous, regular, seasonal or systematic basis by means of advertising that is broadcast or relayed from a transmitter within the City or distributed from a location within the City; or advertises in newspapers or other periodicals printed and published within the City or through materials distributed in the City by means other than the United States mail; or if there are activities performed in the City on behalf of the service supplier that are significantly associated with the service supplier's ability to establish

and maintain a market in the City for the provision of services that are subject to a tax under this Article.

SEC. 8-18.120 DUTY TO COLLECT - PROCEDURES.

(a) Collection By Service Suppliers. The duty of service suppliers to collect and remit the taxes imposed by the provisions of this Article shall be performed as follows:

- (1) The tax shall be collected by service suppliers insofar as practicable at the same time as, and along with, the collection of the charges made in accordance with the regular billing practice of the service supplier. Where the amount paid by a service user to a service supplier is less than the full amount of the charge and tax which was accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid. In those cases where a service user has notified the service supplier of refusal to pay the tax imposed on said charges, Section 8-18.160 shall apply.
- (2) The duty of a service supplier to collect the tax from a service user shall commence with the beginning of the first regular billing period applicable to the service user where all charges normally included in such regular billing are subject to the provisions of this Article. Where a service user receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

(b) Filing Return and Payment. Each person required by this Article to remit a tax shall file a return to the Tax Administrator, on forms approved by the Tax Administrator, on or before the due date. The full amount of the tax collected shall be included with the return and filed with the Tax Administrator. The Tax Administrator is authorized to require such additional information as he or she deems necessary to determine if the tax is being levied, collected, and remitted in accordance with this Article. Returns are due immediately upon cessation of business for any reason. Pursuant to Revenue and Tax Code Section 7284.6, the Tax Administrator, and its agents, shall maintain such filing returns as confidential information that is exempt from the disclosure provisions of the Public Records Act.

SEC. 8-18.130 COLLECTION PENALTIES-SERVICE SUPPLIERS

(a) Taxes collected by a service supplier from a service user are delinquent if not received by the Tax Administrator on or before the due date. Should the due date occur on a weekend or legal holiday, the return must be received by the Tax Administrator on the first regular working day following the weekend or legal holiday. A direct deposit, including electronic fund transfers and other similar methods of electronically exchanging monies between financial accounts, made by a service supplier in satisfaction of its obligations under this subsection, shall be considered timely if the transfer is initiated on or before the due date, and the transfer settles into the City's account on the following business day.

### ATTACHMENT III

(b) If the person required to collect and/or remit the utility users tax fails to collect the tax (by failing to properly assess the tax on one or more services or charges on the customer's billing) or fails to remit the tax collected on or before the due date, the Tax Administrator shall attach a penalty for such delinquencies or deficiencies at the rate of fifteen percent (15%) of the total tax that is delinquent or deficient in the remittance, and shall pay interest at the rate of 75/100ths percent (.75%) per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent, until paid.

(c) The Tax Administrator shall have the power to impose additional penalties upon persons required to collect and remit taxes pursuant to the provisions of this Article for fraud or gross negligence in reporting or remitting at the rate of fifteen percent (15%) of the amount of the tax collected and/or required to be remitted, or as recomputed by the Tax Administrator.

(d) For collection purposes only, every penalty imposed and such interest that is accrued under the provisions of this Section shall become a part of the tax herein required to be paid.

(e) Notwithstanding the foregoing, the Tax Administrator may, in his or her discretion, modify the due dates of this Article to be consistent with any uniform standards or procedures that mutually agreed upon by other public agencies imposing a utility users tax, or otherwise legally established, to create a central payment location or mechanism.

#### SEC. 8-18.140 ACTIONS TO COLLECT.

Any tax required to be paid by a service user under the provisions of this Article shall be deemed a debt owed by the service user to the City. Any such tax collected from a service user which has not been remitted to the Tax Administrator shall be deemed a debt owed to the City by the person required to collect and remit and shall no longer be a debt of the service user. Any person owing money to the City under the provisions of this Article shall be liable to an action brought in the name of the City for the recovery of such amount, including penalties and interest as provided for in this Article, along with any collection costs incurred by the City as a result of the person's noncompliance with this Article, including, but not limited to, reasonable attorneys' fees. Any tax required to be collected by a service supplier or owed by a service user is an unsecured priority excise tax obligation under 11 U.S.C.A. Section 507(a)(8)(C).

#### SEC. 8-18.150 DEFICIENCY DETERMINATION AND ASSESSMENT - TAX APPLICATION ERRORS.

(a) The Tax Administrator shall make a deficiency determination if he or she determines that any service supplier or service user required to pay, collect, and/or remit taxes pursuant to the provisions of this Article has failed to pay, collect, and/or remit the proper amount of tax by improperly or failing to apply the tax to one or more taxable services or charges. Nothing herein shall require that the Tax Administrator institute proceedings under this Section 8-18.150 if, in the opinion of the Tax Administrator, the cost of collection or enforcement likely outweighs the tax benefit.

### ATTACHMENT III

(b) The Tax Administrator shall mail a notice of such deficiency determination to the person or entity allegedly owing the tax, which notice shall refer briefly to the amount of the taxes owed, plus interest at the rate of 75/100ths percent (.75%) per month, or any fraction thereof, on the amount of the tax from the date on which the tax should have been received by the City. Within fourteen (14) calendar days after the date of mailing of such notice, the person or entity allegedly owing the tax may file a request in writing with the Tax Administrator for a hearing on the matter.

(c) If the person or entity allegedly owing the tax fails to request a hearing within the prescribed time period, the amount of the deficiency determination shall become a final assessment, and shall immediately be due and owing to the City. If the person requests a hearing, the Tax Administrator shall cause the matter to be set for hearing, which shall be scheduled within thirty (30) calendar days after receipt of the written request for hearing. Notice of the time and place of the hearing shall be mailed by the Tax Administrator to such person or entity at least ten (10) calendar days prior to the hearing, and, if the Tax Administrator desires said person or entity to produce specific records at such hearing, such notice may designate the records requested to be produced.

(d) At the time fixed for the hearing, the Tax Administrator shall hear all relevant testimony and evidence, including that of any other interested parties. At the discretion of the Tax Administrator, the hearing may be continued from time to time for the purpose of allowing the presentation of additional evidence. Within a reasonable time following the conclusion of the hearing, the Tax Administrator shall issue a final assessment (or non-assessment), thereafter, by confirming, modifying or rejecting the original deficiency determination, and shall mail a copy of such final assessment to person or entity owing the tax. The decision of the Tax Administrator may be appealed pursuant to Section 8-18.200 of this Article. Filing an application with the Tax Administrator and appeal to the City Manager pursuant to Section 8-18.200 of this Article is a prerequisite to a suit thereon.

(e) Payment of the final assessment shall become delinquent if not received by the Tax Administrator on or before the thirtieth (30<sup>th</sup>) day following the date of receipt of the notice of final assessment. The penalty for delinquency shall be fifteen percent (15%) on the total amount of the assessment, along with interest at the rate of 75/100ths percent (.75%) per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date of delinquency, until paid. The applicable statute of limitations regarding a claim by the City seeking payment of a tax assessed under this Article shall commence from the date of delinquency as provided in this subsection (e).

(f) All notices under this Section may be sent by regular mail, postage prepaid, and shall be deemed received on the third calendar day following the date of mailing, as established by a proof of mailing.

#### SEC. 8-18.160 ADMINISTRATIVE REMEDY - NON-PAYING SERVICE USERS.

(a) Whenever the Tax Administrator determines that a service user has deliberately withheld the amount of the tax owed by the service user from the amounts remitted to a person required to collect the tax, or whenever the Tax Administrator deems it in the best interest of the City, he or she may relieve such person of the obligation to collect the taxes due under this Article



### ATTACHMENT III

from certain named service users for specific billing periods. To the extent the service user has failed to pay the amount of tax owed for a period of two (2) or more billing periods, the service

supplier shall be relieved of the obligation to collect taxes due. The service supplier shall provide the City with the names and addresses of such service users and the amounts of taxes owed under the provisions of this Article. Nothing herein shall require that the Tax Administrator institute proceedings under this Section 8-18.160 if, in the opinion of the Tax Administrator, the cost of collection or enforcement likely outweighs the tax benefit.

(b) In addition to the tax owed, the service user shall pay a delinquency penalty at the rate of fifteen percent (15%) of the total tax that is owed, and shall pay interest at the rate of 75/100ths percent (.75 %) per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the due date, until paid.

(c) The Tax Administrator shall notify the non-paying service user that the Tax Administrator has assumed the responsibility to collect the taxes due for the stated periods and demand payment of such taxes, including penalties and interest. The notice shall be served on the service user by personal delivery or by deposit of the notice in the United States mail, postage prepaid, addressed to the service user at the address to which billing was made by the person required to collect the tax; or, should the service user have a change of address, to his or her last known address.

(d) If the service user fails to remit the tax to the Tax Administrator within thirty (30) days from the date of the service of the notice upon him or her, the Tax Administrator may impose an additional penalty of fifteen percent (15%) of the amount of the total tax that is owed.

#### SEC. 8-18.170 ADDITIONAL POWERS AND DUTIES OF THE TAX ADMINISTRATOR.

(a) The Tax Administrator shall have the power and duty to enforce each and all of the provisions of this Article.

(b) The Tax Administrator may adopt administrative rules and regulations consistent with provisions of this Article for the purpose of interpreting, clarifying, carrying out and enforcing the payment, collection and remittance of the taxes herein imposed. A copy of such administrative rules and regulations shall be on file in the Tax Administrator's office. To the extent that the Tax Administrator determines that the tax imposed under this Article shall not be collected in full for any period of time from any particular service supplier or service user, that determination shall be considered an exercise of the Tax Administrator's discretion to settle disputes and shall not constitute a change in taxing methodology for purposes of Government Code Section 53750 or otherwise. The Tax Administrator is not authorized to amend the City's methodology for purposes of Government Code Section 53570, and the City does not waive or abrogate its ability to impose the utility users tax in full as a result of promulgating administrative rulings or entering into agreements.

### ATTACHMENT III

(c) Upon a proper showing of good cause, the Tax Administrator may make administrative agreements, with appropriate conditions, to vary from the strict requirements of this Article and thereby: (1) conform to the billing procedures of a particular service supplier so long as said agreements result in the collection of the tax in conformance with the general purposes and scope of this Article; or, (2) to avoid a hardship where the administrative costs of collection and remittance greatly outweigh the tax benefit. A copy of each such agreement shall be on file in the Tax Administrator's office and are voidable by the Tax Administrator or the City at any time.

(d) The Tax Administrator may conduct an audit, to ensure proper compliance with the requirements of this Article, of any person required to collect and/or remit a tax pursuant to this Article. The Tax Administrator shall notify said person of the initiation of an audit in writing. In the absence of fraud or other intentional misconduct, the audit period of review shall not exceed a period of three (3) years next preceding the date of receipt of the written notice by said person from the Tax Administrator. Upon completion of the audit, the Tax Administrator may make a deficiency determination pursuant to Section 8-18.150 of this Article for all taxes (and applicable penalties and interest) owed and not paid, as evidenced by information provided by such person to the Tax Administrator. If said person is unable or unwilling to provide sufficient records to enable the Tax Administrator to verify compliance with this Article, the Tax Administrator is authorized to make a reasonable estimate of the deficiency. Said reasonable estimate shall be entitled to a rebuttable presumption of correctness.

(e) Upon receipt of a written request of a taxpayer, and for good cause, the Tax Administrator may extend the time for filing any statement required pursuant to this Article for a period of not to exceed forty-five (45) days, provided that the time for filing the required statement has not already passed when the request is received. No penalty for delinquent payment shall accrue by reason of such extension. Interest shall accrue during said extension at the rate of 75/100ths percent (.75 %) per month, prorated for any portion thereof.

(f) The Tax Administrator shall determine the eligibility of any person who asserts a right to exemption from, or a refund of, the tax imposed by this Article.

(g) Notwithstanding any provision in this Article to the contrary, the Tax Administrator may waive any penalty or interest imposed upon a person required to collect and/or remit for failure to collect the tax imposed by this Article if the non-collection occurred in good faith. In determining whether the non-collection was in good faith, the Tax Administrator shall take into consideration industry practice or other precedence.

#### SEC. 8-18.180 RECORDS.

(a) It shall be the duty of every person required to collect and/or remit to the City any tax imposed by this Article to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he/she may have been liable for the collection of and remittance to the Tax Administrator, which records the Tax Administrator shall have the right to inspect at a reasonable time.

### ATTACHMENT III

(b) The City, through the City Council, may issue an administrative subpoena to compel a person to deliver, to the Tax Administrator, copies of all records deemed necessary by the Tax Administrator to establish compliance with this Article, including the delivery of records in a common electronic format on readily available media if such records are kept electronically by the persons in the usual and ordinary course of business. As an alternative to delivering the subpoenaed records to the Tax Administrator on or before the due date provided in the administrative subpoena, such person may provide access to such records outside the City on or before the due date, provided

that such person shall reimburse the City for all reasonable travel expenses incurred by the City to inspect those records, including travel, meals, lodging and similar expenses, but excluding the normal salary or hourly wages of those persons designated by the City to conduct the inspection.

(c) The Tax Administrator is authorized to execute a non-disclosure agreement approved by the City Attorney to protect the confidentiality of customer information pursuant to California Revenue and Tax Code Section 7284.6 and 7284.7.

(d) If a service supplier uses a billing agent or billing aggregator to bill, collect, and/or remit the tax, the service supplier shall: i) provide to the Tax Administrator the name, address and telephone number of each billing agent and billing aggregator currently authorized by the service supplier to bill, collect, and/or remit the tax to the City; and, ii) upon request of the Tax Administrator, deliver, or effect the delivery of, any information or records in the possession of such billing agent or billing aggregator that, in the opinion of the Tax Administrator, is necessary to verify the proper application, calculation, collection and/or remittance of such tax to the City.

(e) If any person subject to record-keeping under this Section unreasonably denies the Tax Administrator access to such records, or fails to produce the information requested in an administrative subpoena within the time specified, then the Tax Administrator may impose a penalty of \$500 on such person for each day following: i) the initial date that the person refuses to provide such access; or, ii) the due date for production of records as set forth in the administrative subpoena. This penalty shall be in addition to any other penalty imposed under this Article.

#### SEC. 8-18.190 REFUNDS.

Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Article from a service user or service supplier, it may be refunded as provided in this Section:

(a) The Tax Administrator may refund any tax that has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Article from a service user or service supplier, provided that no refund shall be paid under the provisions of this Section unless the claimant or his or her guardian, conservator, executor, or administrator has submitted a written claim to the Tax Administrator within one year of the overpayment or erroneous or illegal collection of said tax. Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto. Nothing herein shall

### ATTACHMENT III

permit the filing of a claim on behalf of a class or group of taxpayers unless each member of the class has submitted a written claim under penalty of perjury as provided by this subsection.

(b) The Tax Administrator, where the claim is within his or her settlement authority as established by ordinance or by resolution of the City Council from time to time, or the City Council where the claim is in excess of that amount, shall act upon the refund claim within forty-five (45) calendar days of the initial receipt of the refund claim. Said decision shall be final. If the Tax Administrator/City Council fails or refuses to act on a refund claim within the forty-five (45) calendar day period, the claim shall be deemed to have been rejected by the Tax Administrator/City Council on the forty-fifth (45<sup>th</sup>) day. The Tax Administrator shall give notice of the action in a form which substantially complies with that set forth in Government Code Section 913.

(c) The filing of a written claim pursuant to Government Code Section 935 is a prerequisite to any suit thereon. Any action brought against the City pursuant to this Section shall be subject to the provisions of Government Code Section 945.6 and 946.

(d) Notwithstanding the notice provisions of subsection (a) of this Section, the Tax Administrator may, at his or her discretion, give written permission to a service supplier, who has collected and remitted any amount of tax in excess of the amount of tax imposed by this Article, to claim credit for such overpayment against the amount of tax which is due the City upon a subsequent monthly return(s) to the Tax Administrator, provided that: i) such credit is claimed in a return dated no later than one year from the date of overpayment or erroneous collection of said tax; ii) the Tax Administrator is satisfied that the underlying basis and amount of such credit has been reasonably established; and iii) in the case of an overpayment by a service user to the service supplier that has been remitted to the City, the Tax Administrator has received proof, to his or her satisfaction, that the overpayment has been refunded by the service supplier to the service user in an amount equal to the requested credit.

(e) Notwithstanding subsections (a) through (d) above, a service supplier shall be entitled to take any overpayment as a credit against an underpayment whenever such overpayment has been received by the City within the three (3) years next preceding a deficiency determination or assessment by the Tax Administrator in connection with an audit instituted by the Tax Administrator pursuant to Section 8-18.170. A service supplier shall not be entitled to said credit unless it first clearly establishes, to the satisfaction of the Tax Administrator, the right to the credit by written records showing entitlement thereto. Under no circumstances shall an overpayment taken as a credit against an underpayment pursuant to this subsection qualify a service supplier for a refund to which it would not otherwise be entitled under the one-year written claim requirement of this Section.

### SEC. 8-18.200 APPEALS.

(a) The provisions of this Section apply to any decision (other than a decision relating to a refund pursuant to Section 8-18.190 of this Article), deficiency determination, assessment, or administrative ruling of the Tax Administrator. Any person aggrieved by any decision (other than a

### ATTACHMENT III

decision relating to a refund pursuant to Section 8-18.190 of this Article), deficiency determination, assessment, or administrative ruling of the Tax Administrator, shall be required to comply with the appeals procedure of this Section. Compliance with this Section shall be a prerequisite to a suit thereon. [See Government Code Section 935(b)]. Nothing herein shall permit the filing of a claim or action on behalf of a class or group of taxpayers.

(b) If any person is aggrieved by any decision (other than a decision relating to a refund pursuant to Section 8-18.190 of this Article), deficiency determination, assessment, or administrative ruling of the Tax Administrator he or she may appeal to the City Manager by filing a notice of appeal with the City Clerk within fourteen (14 ) calendar days of the date of the decision, deficiency determination, assessment, or administrative ruling of the Tax Administrator which aggrieved the service user or service supplier.

(c) The matter shall be scheduled for hearing before an independent hearing officer selected by the City Manager, no more than thirty (30) calendar days from the receipt of the appeal. The appellant shall be mailed notice of the time and place of the hearing, as well as any relevant materials, at least five (5) calendar days prior to the hearing. The hearing may be continued from time to time upon mutual consent. At the time of the hearing, the appealing party, the Tax Administrator and any other interested person may present such relevant evidence as he or she may have relating to the determination from which the appeal is taken.

(d) Based upon the submission of such evidence and the review of the City's files, the hearing officer shall issue a written notice and order upholding, modifying or reversing the determination from which the appeal is taken. The notice shall be given within fourteen (14) calendar days after the conclusion of the hearing and shall state the reasons for the decision. The notice shall specify that the decision is final and that any petition for judicial review shall be filed within ninety (90) calendar days from the date of the decision in accordance with Code of Civil Procedure Section 1094.6.

(e) All notices under this Section may be sent by regular mail, postage prepaid, and shall be deemed received on the third calendar day following the date of mailing, as established by a proof of mailing.

#### SEC- 8.18.210 NO INJUNCTION/ WRIT OF MANDATE.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this City or against any officer of the City to prevent or enjoin the collection under this Article of any tax or any amount of tax required to be collected and/or remitted.

#### SEC. 8-18.220 NOTICE OF CHANGES TO ORDINANCE.

If a tax under this Article is added repealed, increased, reduced, or the tax base is changed, the Tax Administrator shall follow the notice requirements of California Public Utilities

Code Section 799.

SEC. 8-18.230 EFFECT OF STATE AND FEDERAL  
REFERENCE/AUTHORIZATION.

Unless specifically provided otherwise, any reference to a state or federal statute in this Article shall mean such statute as is may be amended from time to time, provided that such reference to a statute herein shall not include any subsequent amendment thereto, repeal thereof, or to any subsequent change of interpretation thereto by a state or federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would require voter approval under California law, or to the extent that such change would result in a tax decrease (as a result of excluding all or a part of a utility service, or charge therefor, from taxation). Only to the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, the provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.

To the extent that the City's authorization to collect or impose any tax imposed under this Article is expanded or limited as a result of changes in state or federal law, no amendment or modification of this Article shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this Article.

SEC. 8-18.240 INDEPENDENT AUDIT OF TAX COLLECTION, EXEMPTION,  
REMITTANCE, AND EXPENDITURE.

The City shall annually verify that the taxes owed under this Article have been properly applied, exempted, collected, and remitted in accordance with the Article, and properly expended according to applicable municipal law. The annual verification shall be performed by a qualified independent third party and the review shall employ reasonable, cost-effective steps to assure compliance, including the use of sampling audits. The verification shall not be required of tax remitters where the cost of the verification may exceed the tax revenues to be reviewed.

SEC. 8-18.250 REMEDIES CUMULATIVE.

All remedies and penalties prescribed by this Article or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code Section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code Section 17070 et seq.), are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Article.

SEC. 8-18.260 TERMINATION OF UTILITY USER TAX.

### ATTACHMENT III

The levy of taxes as provided in this Article shall expire on June 30, 2019, unless re-enacted by a separate ordinance of the City Council following a majority vote of the electorate. The termination of the levy of taxes as provided herein shall not terminate the obligation to pay taxes levied on services used prior to such date. Taxes levied prior to June 30, ~~2019~~ 2039, shall remain a debt payable to the City. All provisions of this Article, except those relating to the levy of taxes, shall continue in full force and effect after such date.

*Added by Ord. No. ME-09-01, adopted May 19, 2009*



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

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**File #:** LB 16-093

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**DATE:** September 13, 2016

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Designation of Voting Delegates and Alternates for the League of California Cities 2016 Annual Conference

**RECOMMENDATION**

That the City Council designates a voting delegate and two alternate voting delegates as Hayward's representatives to the League of California Cities 2016 Annual Conference and adopts a Resolution with the designees identified; and authorizes the City Clerk to complete and submit the 2016 Annual Conference Voting Delegate/Alternate Form along with the adopted Resolution.

**ATTACHMENTS**

Attachment I Staff Report

Attachment II Resolution

Attachment III Voting Procedures and Voting Delegate/Alternate Form

Attachment IV Annual Conference Resolutions Packet





DATE: September 13, 2016

TO: Mayor and City Council

FROM: City Clerk

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Designation of Voting Delegates and Alternates for the League of California Cities 2016 Annual Conference

**RECOMMENDATION**

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**SUMMARY AND BACKGROUND**

Consistent with the League of California Cities bylaws, a city's voting delegate and up to two alternates must be designated by formal Resolution of the Council.

The voting delegate and alternates must be registered to attend the conference, which is scheduled for October 5-7, 2016, in Long Beach, CA. The voting delegate card may be transferred freely between the voting delegate and alternates. Council Members Lamnin, Márquez, Peixoto and Salinas expressed interest in attending the League's Annual Conference and have registered to do so.

The League's correspondence on this matter, the Annual Conference Voting Procedures, and the Voting Delegate/Alternate Form are provided as Attachment III for Council's reference. The completed form is due back to the League no later than September 23, 2016.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

---

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO 16-\_\_\_\_\_

Introduced by\_\_\_\_\_

A RESOLUTION DESIGNATING A VOTING DELEGATE AND TWO  
ALTERNATE VOTING DELEGATES AS HAYWARD'S REPRESENTATIVES  
TO THE LEAGUE OF CALIFORNIA CITIES 2016 ANNUAL CONFERENCE

WHEREAS, the City of Hayward is a member of the League of California Cities and the League's Annual Conference is scheduled for October 5-7, 2016, in Long Beach, CA; and

WHEREAS, during the annual conference, the League membership considers and takes action on resolutions that establish League policy; and

WHEREAS, in order to vote on behalf of the City of Hayward at the League's Annual Business Meeting, it is necessary to designate voting delegates and alternates prior to the Annual Conference in accordance with the League's bylaws; and

WHEREAS, Council Members Sara Lamnin, Elisa Márquez, Marvin Peixoto, and Mark Salinas expressed interest in attending the League's Annual Conference and have registered to do so.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that \_\_\_\_\_ is hereby designated as the City's voting delegate and Council Members \_\_\_\_\_ and \_\_\_\_\_ are hereby designated as the City's alternate voting delegates to the League of California Cities 2016 Annual Conference.

IN COUNCIL, HAYWARD, CALIFORNIA, \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

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



1400 K Street, Suite 400 • Sacramento, California 95814  
 Phone: 916.658.8200 Fax: 916.658.8240  
[www.cacities.org](http://www.cacities.org)

<p><b>Council Action Advised by July 31, 2016</b></p>
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June 10, 2016

**TO: Mayors, City Managers and City Clerks**

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES  
 League of California Cities Annual Conference – October 5 – 7, Long Beach**

The League's 2016 Annual Conference is scheduled for October 5 – 7 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly), scheduled for noon on Friday, October 7, at the Long Beach Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

**Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, September 23, 2016. This will allow us time to establish voting delegate/alternate records prior to the conference.**

Please note the following procedures that are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates must be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: [www.cacities.org](http://www.cacities.org). In order to cast a vote, at least one voter must be present at the

Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Long Beach Convention Center, will be open at the following times: Wednesday, October 5, 8:00 a.m. – 6:00 p.m.; Thursday, October 6, 7:00 a.m. – 4:00 p.m.; and Friday, October 7, 7:30–10:00 a.m. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League office by Friday, September 23. If you have questions, please call Kayla Gibson at (916) 658-8247.

**Attachments:**

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form

## **Annual Conference Voting Procedures**

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



**CITY:** \_\_\_\_\_

**2016 ANNUAL CONFERENCE  
VOTING DELEGATE/ALTERNATE FORM**

**Please complete this form and return it to the League office by Friday, September 23, 2016. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.**

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

**Please note:** Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

**1. VOTING DELEGATE**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**2. VOTING DELEGATE - ALTERNATE**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**3. VOTING DELEGATE - ALTERNATE**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.**

**OR**

**ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).**

Name: \_\_\_\_\_ E-mail: \_\_\_\_\_

Mayor or City Clerk \_\_\_\_\_ Phone: \_\_\_\_\_  
(circle one) (signature)

Date: \_\_\_\_\_

**Please complete and return by Friday, September 23, 2016**

League of California Cities  
ATTN: Kayla Gibson  
1400 K Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814

**FAX: (916) 658-8240**  
E-mail: kgibson@cacities.org  
(916) 658-8247



***Annual Conference  
Resolutions Packet***

***2016 Annual Conference Resolutions***



***Long Beach, California***

***October 5 – 7, 2016***



## INFORMATION AND PROCEDURES

**RESOLUTIONS CONTAINED IN THIS PACKET:** The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, one resolution has been introduced for consideration by the Annual Conference and referred to the League policy committees.

**POLICY COMMITTEES:** One policy committee will meet at the Annual Conference to consider and take action on the resolution referred to them. The committee is Transportation, Communication and Public Works. The committee will meet 9:00 – 10:30 a.m. on Wednesday, October 5, 2016, at the Hyatt Regency. The sponsor of the resolution has been notified of the time and location of the meeting.

**GENERAL RESOLUTIONS COMMITTEE:** This committee will meet at 1:00 p.m. on Thursday, October 6, at the Hyatt Regency in Long Beach, to consider the report of the policy committee regarding the resolution. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

**ANNUAL LUNCHEON/BUSINESS MEETING/GENERAL ASSEMBLY:** This meeting will be held at 12:00 p.m. on Friday, October 7, at the Long Beach Convention Center.

**PETITIONED RESOLUTIONS:** For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Meeting of the General Assembly. This year, that deadline is 12:00 p.m., Thursday, October 6. Resolutions can be viewed on the League's Web site: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: [mdesmond@cacities.org](mailto:mdesmond@cacities.org) or (916) 658-8224

## **GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS**

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities is through the League's eight standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

### **Guidelines for Annual Conference Resolutions**

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
  - (a) Focus public or media attention on an issue of major importance to cities.
  - (b) Establish a new direction for League policy by establishing general principals around which more detailed policies may be developed by policy committees and the board of directors.
  - (c) Consider important issues not adequately addressed by the policy committees and board of directors.
  - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

## LOCATION OF MEETINGS

### **Policy Committee Meetings**

Wednesday, October 5

Hyatt Regency Long Beach

200 South Pine Street, Long Beach

**9:00 – 10:30 a.m.:** Transportation, Communication & Public Works

### **General Resolutions Committee**

Thursday, October 6, 1:00 p.m.

Hyatt Regency Long Beach

200 South Pine Street, Long Beach

### **Annual Business Meeting and General Assembly Luncheon**

Friday, October 7, 12:00 p.m.

Long Beach Convention Center

300 East Ocean Boulevard, Long Beach

## KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Number	Key Word Index	Reviewing Body Action		
		1	2	3
		1 - Policy Committee Recommendation to General Resolutions Committee		
		2 - General Resolutions Committee		
		3 - General Assembly		

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### TRANSPORTATION, COMMUNICATION, AND PUBLIC WORKS POLICY COMMITTEE

		1	2	3
1	Vision Zero			

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League website: [www.cacities.org](http://www.cacities.org). The entire Resolutions Packet will be posted at: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

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## KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)*

Resolutions have been grouped by policy committees to which they have been assigned.

### **KEY TO REVIEWING BODIES**

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

### **KEY TO ACTIONS TAKEN**

- |   |   |
|---|---|
| A | Approve   |
| D | Disapprove                                      |
| N | No Action                                       |
| R | Refer to appropriate policy committee for study |

### **ACTION FOOTNOTES**

\* Subject matter covered in another resolution

a Amend+

Aa Approve as amended+

\*\* Existing League policy

Aaa Approve with additional amendment(s)+

\*\*\* Local authority presently exists

Ra Refer as amended to appropriate policy committee for study+

Raa Additional amendments and refer+

Da Amend (for clarity or brevity) and Disapprove+

Na Amend (for clarity or brevity) and take No Action+

W Withdrawn by Sponsor

### **Procedural Note:**

The League of California Cities resolution process at the Annual Conference is guided by the League Bylaws. A helpful explanation of this process can be found on the League's website by clicking on this link: [Resolution Process](#).

**1. RESOLUTION COMMITTING THE LEAGUE OF CALIFORNIA CITIES TO SUPPORTING VISION ZERO, TOWARD ZERO DEATHS, AND OTHER PROGRAMS OR INITIATIVES TO MAKE SAFETY A TOP PRIORITY FOR TRANSPORTATION PROJECTS AND POLICY FORMULATION, WHILE ENCOURAGING CITIES TO PURSUE SIMILAR INITIATIVES**

Source: City of San Jose

Concurrence of five or more cities/city officials: Cities: Fremont; Los Angeles; Sacramento; San Diego; San Francisco; Santa Monica; and West Hollywood

Referred to: Transportation, Communication and Public Works Policy Committees

Recommendation to General Resolution Committee:

**WHEREAS**, each year more than 30,000 people are killed on streets in the United States in traffic collisions; and

**WHEREAS**, traffic fatalities in America hit a seven-year high in 2015 and is estimated to have exceeded 35,000 people; with pedestrians and cyclists accounting for a disproportionate share; and

**WHEREAS** the Centers for Disease Control recently indicated that America's traffic death rate per person was about double the average of peer nations; and

**WHEREAS** Vision Zero and Toward Zero Deaths are comprehensive strategies to eliminate all traffic fatalities and severe injuries using a multi-disciplinary approach, including education, enforcement and engineering measures; and

**WHEREAS** a core principal of Vision Zero and Toward Zero Deaths is that traffic deaths are preventable and unacceptable; and

**WHEREAS** cities across the world have adopted and implemented Vision Zero and Toward Zero Deaths strategies and successfully reduced traffic fatalities and severe injuries occurring on streets and highways; and

**WHEREAS** safe, reliable and efficient transportation systems are essential foundations for thriving cities.

**RESOLVED** that the League of California Cities commits to supporting Vision Zero, Toward Zero Deaths, and other programs, policies, or initiatives that prioritize transportation safety;

**AND** encourage cities throughout California to join in these traffic safety initiatives to pursue the elimination of death and severe injury crashes on our roadways;

**AND** encourage the State of California to consider adopting safety as a top priority for both transportation projects and policy formulation.

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**Background Information on Resolution to Support Transportation Safety Programs**

Each year more than 30,000 people are killed on streets in the United States in traffic collisions. Traffic fatalities in America hit a seven-year high in 2015 and are estimated to have exceeded 35,000 people, with children, seniors, people of color, low-income and persons with disabilities accounting for a disproportionate share. The Centers for Disease Control recently reported that the traffic death rate per

person in the United States was about double the average of peer nations, with close to 10% of these deaths occurring in California (3,074 in 2014). California's largest city, Los Angeles, has *the* highest rate of traffic death among large U.S. cities, at 6.27 per 100,000 people.

Cities around the world have adopted traffic safety projects and policies that underscore that traffic deaths are both unacceptable and preventable. In 1997, Sweden initiated a program called Vision Zero that focused on the idea that "Life and health can never be exchanged for other benefits within the society." The World Health Organization has officially endorsed Vision Zero laying out traffic safety as an international public health crisis and the United Nations General Assembly introduced the Decade of Action for Road Safety 2011-2020 and set the goal for the decade: "to stabilize and then reduce the forecast level of road traffic fatalities around the world" by 50% by 2020.

As of this writing, 18 U.S. cities have adopted Vision Zero programs (including New York City, Boston, Ft. Lauderdale, Austin, San Antonio, Washington DC, and Seattle) to reduce the numbers of fatal crashes occurring on their roads (<http://visionzeronetwork.org/map-of-vision-zero-cities/>). California cities lead the way, with the cities of San Jose, San Francisco, San Mateo, San Diego, Los Angeles, Long Beach and Fremont having adopted Vision Zero strategies and many others are actively considering adoption.

In 2009 a national group of traffic safety stakeholders launched an effort called "Toward Zero Deaths: A National Strategy on Highway Safety". This initiative has been supported by the Federal Highway Administration (FHWA) (<http://safety.fhwa.dot.gov/tzd/>) and states throughout the United States, including California ([http://www.ots.ca.gov/OTS\\_and\\_Traffic\\_Safety/About\\_OTS.asp](http://www.ots.ca.gov/OTS_and_Traffic_Safety/About_OTS.asp)).

This past January the U.S. Department of Transportation launched its "Mayors' Challenge for Safer People and Safer Streets." This effort calls on elected officials to partner with the USDOT and raise the bar for safety for people bicycling and walking by sharing resources, competing for awards, and taking action. The California cities of Beverly Hills, Davis, Maywood, Cupertino, Culver City, Rialto, Santa Monica, Porterville, Los Angeles, San Jose, Monterey, Glendale, Irvine, Oakland, Palo Alto, Alameda, West Hollywood and Fullerton signed on to this effort. Additionally, the Institute of Transportation Engineers (ITE), a leading organization for transportation professionals, recently launched a new initiative to aggressively advance the Vision Zero and Towards Zero Deaths movements (<http://library.ite.org/pub/ed59a040-caf4-5300-8ffc-35deb33ce03d>).

Ultimately all of these programs share the fundamental belief that a data-driven, systems-level, interdisciplinary approach can prevent severe and fatal injuries on our nation's roadways. They employ proven strategies, actions, and countermeasures across education, enforcement and engineering. Support for many of these life-saving programs extends far beyond government agencies, and includes National Association of City Transportation Officials (NACTO), American Association of State Highway and Transportation Officials (AASHTO), Kaiser Permanente, AARP, the National Safe Routes to School Partnership, and the International Association of Chiefs of Police, among many others.

There is wide-spread recognition that cities and towns need safe, efficient transportation systems to be economically prosperous. A resolution by the League of California Cities to support transportation safety policies like Vision Zero and Toward Zero Deaths, and encourage implementation of projects and programs that prioritize safety will help California elevate the health and safety of its residents and position us as a leader in national efforts to promote a culture of safe mobility for all.

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## **League of California Cities Staff Analysis on Resolution No. 1**

Staff: Rony Berdugo  
Committee: Transportation, Communication, and Public Works

### **Summary:**

The resolved clauses in Resolution No. 1: commits the League of California Cities to:

- 1) Supporting Vision Zero, Toward Zero Deaths, and other programs, policies, or initiatives that prioritize transportation safety;
- 2) Encouraging cities throughout California to join in these traffic safety initiatives to pursue the elimination of death and severe injury crashes on our roadways; and
- 3) Encouraging the State to consider adopting transportation safety as a top priority for transportation projects and policy formulation.

### **Background:**

The City of San Jose notes national and international efforts to reduce fatal and severe injury traffic collisions through systematic data driven approaches, such as Vision Zero and Toward Zero Deaths. According to the World Health Organization (WHO), "Vision Zero is a traffic safety policy, developed in Sweden in the late 1990s and based on four elements: ethics, responsibility, a philosophy of safety, and creating mechanisms for change."<sup>1</sup> Below is a summary of each Vision Zero element, according to WHO:

1. Ethics – Life and health trump all other transportation benefits, such as mobility.
2. Responsibility – Responsibility for crashes and injuries is shared between the providers of the system and the road users.
3. Safety Philosophy – Asserts that a transportation system should account for the unstable relationship of human error with fast/heavy machinery to avoid deaths/serious injury, but accept crashes/minor injuries.
4. Driving Mechanisms for Change – Asserts that road users and providers must both work to guaranteeing road safety, taking measures such as: improving levels of seat belt use, installing crash-protective barriers, wider use of speed camera technology, increasing random breathalyzer tests, and promoting safety in transportation project contracts.

### **A Vision Zero City meets the following minimum standards:**

- Sets clear goal of eliminating traffic fatalities and severe injuries
- Mayor has publicly, officially committed to Vision Zero
- Vision Zero plan or strategy is in place, or Mayor has committed to doing so in clear time frame
- Key city departments (including police, transportation and public health) are engaged

List of cities that meet the minimum Vision Zero standards nationally include: Anchorage, AK; Austin, TX; Boston, MA; Cambridge, MA; Denver, CO; Eugene, OR; Fort Lauderdale, FL; Fremont, CA; Los Angeles, CA; New York, NY; Portland, OR; Sacramento, CA; San Antonio, TX; San Diego, CA; San Francisco, CA; San Jose, CA; Seattle, WA; Washington, DC

List of cities that are considering adoption of Vision Zero nationally include: Ann Arbor, MI; Bellevue, OR; Bethlehem, PA; Chicago, IL; Columbia, MO; Houston, TX; Long Beach, CA;

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<sup>1</sup> [http://who.int/violence\\_injury\\_prevention/publications/road\\_traffic/world\\_report/chapter1.pdf](http://who.int/violence_injury_prevention/publications/road_traffic/world_report/chapter1.pdf)



New Orleans, CA; Philadelphia, PA; Pittsburgh, PA; San Mateo, CA; Santa Ana, CA; Santa Cruz, CA; Santa Monica, CA; St. Paul, MN; Tampa, FL<sup>2</sup>

#### Vision Zero – Samples:

1. San Francisco – In 2015, the City established a two-year action strategy that outlines the projects and policy changes to implement its Vision Zero goal of zero traffic deaths by 2024. The strategy adopts five core principles, such as: 1) traffic deaths are preventable and unacceptable; 2) safety for all road modes and users is the highest priority; 3) transportation system design should anticipate inevitable human error; 4) education, enforcement, and vehicle technology contribute to a safe system; and 5) transportation systems should be designed for speeds that protect human life.<sup>3</sup> The strategy focuses on engineering, enforcement, education, evaluation, and policy changes that can be made to achieve their goals. The City is working on projects, such as:
  - a. Creating protected bike lanes
  - b. Building wider sidewalks
  - c. Reducing traffic speeds<sup>4</sup>

The City is also exploring policy changes to state law that will allow the City to place traffic cameras near schools and senior centers to cite speeding drivers through automated speed enforcement.<sup>5</sup>

2. Los Angeles – the City has established a commitment to eliminate all traffic deaths by 2025. They have identified a network of streets, known as the High Injury Network (HIN)<sup>6</sup>, which maps out their areas of concern where they plan on making strategic investments in reducing deaths/severe injury. According to the City, only 6% of their city streets account for 2/3 of all deaths/severe injury for pedestrians. The City highlights the three following projects as part of their Vision Zero efforts<sup>7</sup>:
  - a. Installation of 22 new Leading Pedestrian Intervals (LPIs) at signals throughout the city, which gives pedestrians a head start against right-turning vehicles when crossing
  - b. Installation of a pedestrian scramble at the intersection of Hollywood and Highland, which stops traffic in all four-directions during pedestrian crossing.
  - c. Installation of curb extensions along Cesar E. Chavez Avenue in their HIN, which reduces the crossing distance for pedestrians, narrows the intersections, and reduces speed for turning vehicles.

#### San Francisco's Vision Zero Categories:

1. Engineering – implement treatments and redesign streets to reduce the frequency and severity of collisions (i.e. using/implementing: high injury network maps, signal timing, high visibility crosswalks, bus stop lengths, etc.)
2. Enforcement – use data driven approach to cite and focus on violations of the California Vehicular Code and S.F. Transportation Code that identify as causative in severe and fatal collisions (i.e. explore implementation of E-citation Pilot, reporting on traffic collision data, police training, etc.)

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<sup>2</sup> <http://visionzeronetwork.org/wp-content/uploads/2016/02/VZ-map-April-20-2016-4.jpg>

<sup>3</sup> <http://www.joomag.com/magazine/vision-zero-san-francisco/0685197001423594455?short>

<sup>4</sup> <http://visionzerosf.org/vision-zero-in-action/engineering-streets-for-safety/>

<sup>5</sup> <http://visionzerosf.org/vision-zero-in-action/public-policy-for-change/>

<sup>6</sup> <http://ladot.maps.arcgis.com/apps/MapJournal/index.html?appid=488062f00db44ef0a29bf481aa337cb3>

<sup>7</sup> <http://visionzero.lacity.org/actions/>

3. Education – coordinate among city departments to create citywide strategy for outreach and safety programs, such as Safe Routes to Schools. (i.e. education campaign includes – Safe Streets SF, large vehicle safe driving for municipal vehicles, etc.)
4. Evaluation – evaluate the impact of engineering, enforcement, education and policy efforts to provide recommendations for refinement (i.e. use of web-based data sharing and tracking systems for transparency and accountability).
5. Policy – support and mobilize local and state policy initiatives that advance Vision Zero (i.e. Advance Automated Safety Enforcement initiative at the state level, in-vehicle technology usage, partnering with state and federal agencies on administrative and legal issues, etc.)

In its annual reporting, the City has established the following measures for successful benchmarks:

- Decreasing total severe and fatal injuries
- Decreasing the proportion of severe and fatal injuries in communities of concern to address social inequities
- Decreasing medical costs at SF General Hospital relating to collisions
- Increasing the number of engineering projects and miles of streets receiving safety improvements
- Decreasing the speeds on SF streets
- Increasing investigation and prosecution of vehicular manslaughter
- Increasing public awareness of Vision Zero and traffic safety laws
- Increasing policy changes made at the state and local levels to advance Vision Zero

**Toward Zero Deaths** – The Federal Highway Administration (FHWA) within the United States Department of Transportation (USDOT) is committed to the vision of eliminating fatalities and serious injuries on national roadways. FHWA has a strategic goal of ensuring the “nation’s highway system provides safe, reliable, effective, and sustainable mobility for all users.”<sup>8</sup> It is essentially the national version of Vision Zero administered primarily through the Highway Safety Improvement Program (HSIP).

At the state level, the California Office of Traffic Safety (OTS) has a mission to “effectively and efficiently administer traffic safety grant funds to reduce traffic deaths, injuries, and economic losses.”<sup>9</sup> They make available grants to local and state public agencies for traffic law enforcement, public traffic safety education, and other programs aimed at reducing fatalities, injuries, and economic loss from collisions.

**Support:** City of Fremont, City of Los Angeles, City of Sacramento, City of San Francisco, City of San Jose, City of Santa Monica, and City of West Hollywood

**Opposition:** One individual

**Fiscal Impact:** Unknown. The costs to any particular city can vary tremendously depending on the level and scope of investment any particular city would seek to make. For example, the City of San Francisco has Vision Zero project costs ranging from \$30,000 for pedestrian safety treatments up to \$12,000,000 for a Streetscape project. The cost of any particular effort could be well below, above, and anywhere between those ranges for Vision Zero implementation.

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<sup>8</sup> <http://safety.fhwa.dot.gov/tzd/>

<sup>9</sup> [http://www.ots.ca.gov/OTS\\_and\\_Traffic\\_Safety/About\\_OTS.asp](http://www.ots.ca.gov/OTS_and_Traffic_Safety/About_OTS.asp)

**Comment:**

- 1) Policy committee members are encouraged to consider carefully how the adoption of the resolved clause in this resolution may affect the League's future policy when it comes to advocating for transportation funding and other existing priorities. While the clause "encouraging cities throughout California to join in these traffic safety initiatives to pursue the elimination of death and severe injury crashes on our roadways" provides an opportunity to highlight strategies that can be considered to improve transportation safety, two other aspects of the resolved appear to establish new policy for the organization in that it would "commit" the League to:
  - Supporting Vision Zero, Toward Zero Deaths, and other programs, policies, or initiatives that prioritize transportation safety.
  - Encouraging the State to consider adopting transportation safety as a top priority for transportation projects and policy formulation.
- 2) Effects of various strategies to improve transportation safety can vary. According to an article published in the San Francisco Chronicle on March 26, 2016, deaths in San Francisco traffic were not falling despite Vision Zero efforts.<sup>10</sup> The article notes that there were seven deaths in 2016, while there was only one in the first 10 weeks of 2015 and seven in 2014 during the same period. The San Francisco Department of Public Health commented that despite these incidents, it's too early to make any conclusions about Vision Zero's effectiveness. In Los Angeles, however, the city has cited significant decreases in severe and fatal injuries with implementation of certain technologies, such as installation of pedestrian scrambles. The success of Vision Zero in any particular city will likely depend on the level of investment and scope of the project(s) as the projects can vary widely.
- 3) In the fifth "Whereas" clause from the top, the word "principal" should be "principle."

**Existing League Policy:** "The League supports additional funding for local transportation and other critical unmet infrastructure needs. One of the League's priorities is to support a consistent and continuous appropriation of new monies from various sources directly to cities and counties for the preservation, maintenance and rehabilitation of the local street and road system. New and additional revenues should meet the following policies:

- System Preservation and Maintenance. Given the substantial needs for all modes of transportation, a significant portion of new revenues should be focused on system preservation. Once the system has been brought to a state of good repair, revenues for maintenance of the system would be reduced to a level that enables sufficient recurring maintenance.
- Commitment to Efficiency. Priority should be given to using and improving current systems. Recipients of revenues should incorporate operational improvements and new technology in projects.
- All Users Based System. New revenues should be borne by all users of the system from the traditional personal vehicle that relies solely on gasoline, to those with new hybrid or electric technology, to commercial vehicles moving goods in the state, and even transit, bicyclists, and pedestrians who also benefit from the use of an integrated transportation network.
- Alternative Funding Mechanisms. Given that new technologies continue to improve the efficiency of many types of transportation methods, transportation stakeholders must be open to new alternative funding mechanisms. Further, the goal of reducing greenhouse gases is also expected to affect vehicle miles traveled, thus further reduce gasoline consumption and revenue from the existing gas tax. The

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<sup>10</sup> <http://www.sfchronicle.com/bayarea/article/Deaths-in-S-F-traffic-not-falling-despite-Vision-7182486.php>

existing user based fee, such as the base \$0.18-cent gas tax is a declining revenue source. Collectively, we must have the political will to push for sustainable transportation revenues.

- Unified Statewide Solution. For statewide revenues, all transportation stakeholders must stand united in the search for new revenues. Any new statewide revenues should address the needs of the entire statewide transportation network, focused in areas where there is defensible and documented need.
- Equity. New revenues should be distributed in an equitable manner, benefiting both the north and south and urban, suburban, and rural areas as well as being equally split between state and local projects.
- Flexibility. Needs vary from region to region and city to city. New revenues and revenue authority should provide the flexibility for the appropriate level of government to meet the goals of the constituents.
- Accountability. All tax dollars should be spent properly, and recipients of new revenues should be held accountable to the taxpayers, whether at the state or local level.”<sup>11</sup>

Additionally, the League adopted to “Increase Funding for Critical Transportation and Water Infrastructure” as its number one strategic goal for 2016. It reads, “Provide additional state and federal financial assistance and new local financing tools to help meet the critical transportation (streets, bridges, active transportation, and transit) and water (supply, sewer, storm water, flood control, etc.) infrastructure maintenance and construction needs throughout California’s cities.”<sup>12</sup>

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<sup>11</sup> <http://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Policy-Development/2016-Summary-of-Existing-Policy-and-Guiding-Princi.aspx>

<sup>12</sup> <http://www.cacities.org/Secondary/About-Us/Strategic-Priorities>

# **LETTERS OF CONCURRENCE**

Resolution No. 1

VISION ZERO

July 21, 2016

The Honorable Dennis Michael, President  
League of California Cities  
1400 K Street  
Sacramento, California 95814

RE: A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING THE ADOPTION AND  
IMPLEMENTATION OF INITIATIVES TO PRIORITIZE TRAFFIC SAFETY THROUGHOUT CALIFORNIA

Dear President Michael,

The City of Fremont enthusiastically endorses the proposed resolution to support the implementation of initiatives to eliminate traffic deaths and severe injuries on our roadways. Fremont is among the early adopters of the Vision Zero traffic safety strategy. With City Council's approval of our Fremont Vision Zero 2020 action plan in March 2016, we are already seeing the benefits of building a safety first culture in our community.

I strongly encourage other California cities to join a growing coalition of support for Vision Zero. Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Traffic fatalities in America hit a seven-year high in 2015 and is estimated to have exceeded 35,000 people. This is about double the average of peer nations and must be addressed. Safety of our residents and visitors is paramount and this is especially true on the roads and streets of our cities. We must put safety as the top priority for all users of our streets. It is fundamental for the prosperity of California cities as safe, efficient, organized transportation systems are essential for economically vibrant and sustainable communities.

The City of Fremont has embraced Vision Zero and we are in strong support of expanded transportation safety in California cities and support the proposed Resolution.

Sincerely,



Bill Harrison  
Mayor





CITY HALL  
LOS ANGELES, CALIFORNIA 90012

August 2, 2016

The Honorable Dennis Michael  
President  
League of California Cities  
1400 K Street  
Sacramento, California 95814

RE: League of California Cities Resolution Supporting Initiatives to Prioritize Traffic Safety

Dear President Michael:

We write in support of the proposed resolution to support the adoption and implementation of Vision Zero initiatives throughout California to eliminate traffic fatalities and injuries. Vision Zero and Towards Zero Deaths strategies have been adopted in cities throughout California, including the City of Los Angeles. Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Every year, more than 200 people are killed while trying to move around Los Angeles. Nearly half of the people who die on Los Angeles streets are people walking and bicycling, and an alarming number of them are children and older adults. The safety of our residents and visitors is paramount. If we can realize Vision Zero throughout California, children will be safer walking to school, families will be safer going to the park, and commuters will be safer getting to work.

The City of Los Angeles adopted Vision Zero as part of its Transportation Strategic Plan, and an executive directive was issued in 2015 directing its implementation. We are in strong support of Vision Zero in California, and we support the proposed Resolution.

Sincerely,

ERIC GARCETTI  
Mayor

JOE BUSCAINO  
Councilmember, 15th District  
League of California Cities Representative



OFFICE OF THE  
CITY COUNCIL

CITY OF SACRAMENTO  
CALIFORNIA

JAY SCHENIRER

COUNCILMEMBER  
DISTRICT FIVE

July 27, 2016

The Honorable Dennis Michael, President  
League of California Cities  
1400 K Street  
Sacramento, California 95814

RE: RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING THE ADOPTION  
AND IMPLEMENTATION OF INITIATIVES TO PRIORITIZE TRAFFIC SAFETY  
THROUGHOUT CALIFORNIA

Dear President Michael,

The City of Sacramento supports the proposed resolution to support the adoption and implementation of initiatives to prioritize transportation safety toward eliminating death and severe injuries on our roadways. **Vision Zero** and **Towards Zero Deaths** strategies have been adopted in many cities and Sacramento is currently developing its own **Vision Zero Action Plan**.

Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Traffic fatalities in America hit a seven-year high in 2015 and are estimated to have exceeded 35,000 people. This is about double the average of peer nations and must be addressed. Safety of our residents and visitors is paramount and this is especially true on roads and streets of our cities. We must put safety as a top priority for all users of our streets. It is fundamental for prosperity of California cities as safety, efficient, organized transportation systems are essential for economically vibrant and sustainable communities.

The City of Sacramento is in strong support of prioritized and expanded transportation safety in California cities and supports the proposed Resolution.

Sincerely,

Jay Schenirer, Council Member  
Chair, Law & Legislation Committee





## THE CITY OF SAN DIEGO

August 9, 2016

The Honorable Dennis Michael, President  
League of California Cities  
1400 K Street  
Sacramento, CA 95814

Dear President Michael:

RE: A resolution of the league of California Cities Supporting the Adoption and Implementation of Initiatives to Prioritize Traffic Safety throughout California

The City of San Diego Transportation & Storm Water Department supports the proposed resolution to support the adoption and implementation of initiatives to eliminate death and severe injuries on our roadways. Vision Zero and Towards Zero Deaths strategies have been adopted in numerous cities throughout California, including the City of San Diego (Attachment 1). Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Traffic fatalities in America hit a seven-year high in 2015 and is estimated to have exceeded 35,000 people. This is about double the average of peer nations and must be addressed. Safety of our residents and visitors is paramount and this is especially true on the roads and streets of our cities. We must put safety as the top priority for all users of our streets. It is fundamental for the prosperity of California cities as safe, efficient, organized transportation systems are essential for economically vibrant and sustainable communities.

The City of San Diego Transportation & Storm Water Department has embraced Vision Zero/Towards Zero Death and I am in strong support of expanded transportation safety in California cities and support the proposed Resolution.

Sincerely,

Kris McFadden  
Director

Attachment: A Resolution of the Council of the City of San Diego Adopting a Vision Zero Plan to Eliminate Traffic Fatalities and Serious Injuries in the Next Ten Years

cc: Katherine Johnston, Director of Infrastructure and Budget Policy, Office of the Mayor  
Kristin Tillquist, Director of State Government Affairs, Office of the Mayor  
Vic Bianes, Assistant Director, Transportation & Storm Water Department  
Linda Marabian, Deputy Director, Traffic Engineering Operations



**Transportation & Storm Water Department**

202 C Street, 9th Floor, MS 9A • San Diego, CA 92101

Tel (619) 236-6594 Fax (619) 236-6570

RESOLUTION NUMBER R- 310042

DATE OF FINAL PASSAGE NOV 03 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN  
DIEGO ADOPTING A VISION ZERO PLAN TO ELIMINATE  
TRAFFIC FATALITIES AND SERIOUS INJURIES IN THE  
NEXT TEN YEARS.

WHEREAS, on average one person each day is seriously injured or killed on the road while walking, bicycling, or driving the streets of San Diego; and,

WHEREAS, the City has adopted numerous studies and plans that outline design concepts to improve safety for people walking and biking in the City including a Pedestrian Master Plan and Bicycle Master Plan; and,

WHEREAS, the City of San Diego's draft Climate Action Plan proposes to achieve 50 percent of commuter mode share for walking, biking and transit use in transit priority areas by 2050 and safer conditions for walking and biking can help implement this Plan; and,

WHEREAS, the City will increase in population by approximately 30 percent by 2050 and the majority of growth will result from infill development thereby increasing demand for safe walking and bicycling; and,

WHEREAS, communities in San Diego have prioritized infrastructure projects that improve walking and biking safety among other project types as represented by the Community Planning Committee report to Infrastructure Committee in November 2013; and,

WHEREAS, the City incurs costs to respond to lawsuits alleging the City's failure to provide safer streets; and,

WHEREAS, restoring infrastructure in the City is a priority of the Council and Mayor; and,

WHEREAS, Vision Zero provides a framework for reducing traffic deaths to zero through a combination of safe engineering measures, education, and enforcement practices; and,

WHEREAS, Vision Zero has been adopted in many cities throughout the country, most notably in New York City which has seen the lowest number of pedestrian fatalities in its first year of implementation since documentation began in 1910; and,

WHEREAS, Circulate San Diego is convening an Advisory Committee to advance Vision Zero Goals; NOW, THEREFORE,

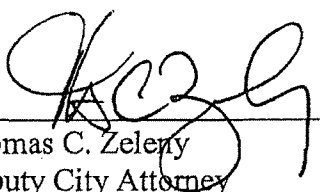
BE IT RESOLVED, by the Council of the City of San Diego, that it hereby adopts a goal of eliminating traffic deaths and serious injuries by 2025; and

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, that it urges City staff from the Mayor's office, Transportation and Stormwater Department, San Diego Police Department, and a representative of the City's Bicycle Advisory Committee to attend meetings of Circulate San Diego's Vision Zero Advisory Committee for a limited time to develop a traffic safety plan that will help the City reach the goal of zero traffic deaths and serious injuries; and

BE IT FURTHER RESOLVED, that the traffic safety plan will be guided by innovative engineering solutions to improve road safety for all users, especially the most vulnerable; will measure and evaluate performance annually; and will include enforcement and education strategies to prevent the most dangerous behaviors that cause public harm, especially along the corridors where collisions are most frequent.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

  
Thomas C. Zeleny  
Deputy City Attorney

TCZ:cfq

September 24, 2015

Or.Dept:Envir. Comm.

Doc. No.: 1116742

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 27 2015.

ELIZABETH S. MALAND  
City Clerk

By

  
Deputy City Clerk

Approved:

11/2/15  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed:

\_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on OCT 27 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 03 2015

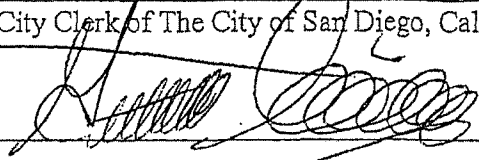
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 310042



August 1, 2016

The Honorable Dennis Michael  
President, League of California Cities  
1400 K Street  
Sacramento, CA 95814

**Re: Resolution of the League of California Cities Supporting the Adoption and Implementation of Initiatives to Prioritize Traffic Safety Throughout California**

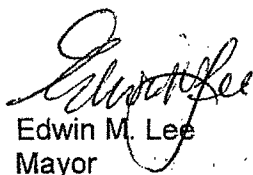
Dear President Michael,

On behalf of the City and County of San Francisco, I am writing to express my support for the proposed resolution to support the adoption and implementation of initiatives to eliminate death and severe injuries on our roadways. Vision Zero and Towards Zero Deaths strategies have been adopted in numerous cities throughout California including San Francisco, San Jose, San Mateo, San Diego, Los Angeles, Santa Barbara, and Santa Monica. Accordingly, I encourage the submission of the resolution to support Vision Zero, Toward Zero Deaths, and other initiatives that make traffic safety a priority, which will be considered by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Every year in San Francisco, approximately 30 people lose their lives and over 200 more are seriously injured while traveling on our streets. These deaths and injuries are unacceptable and preventable, and the City is strongly committed to stopping further loss of life. San Francisco adopted Vision Zero as a policy in 2014, committing to build better and safer streets, educate the public on traffic safety, enforce traffic laws, and adopt policy changes that save lives. Our goal is to create a culture that prioritizes traffic safety and to ensure that mistakes on our roadways do not result in serious injuries or deaths. The safety of our residents and the over 18 million visitors that use our streets each year is paramount, and the same holds true for cities across the California, which need safe, efficient, and organized transportation systems to support economically vibrant and sustainable communities.

The City and County of San Francisco has embraced Vision Zero, and I am in strong support of expanded transportation safety in California cities and, in turn, the proposed Resolution.

Sincerely,

  
Edwin M. Lee  
Mayor



**Mayor Tony Vazquez**  
**Mayor Pro Tempore Ted Winterer**

**Councilmembers**

**Gleam Davis**  
**Sue Himmelrich**  
**Kevin McKeown**  
**Pam O'Connor**  
**Terry O'Day**

July 21, 2016

The Honorable Dennis Michael, President  
League of California Cities  
1400 K Street  
Sacramento, California 95814

RE: THE LEAGUE OF CALIFORNIA CITIES CONSIDERATION OF INITIATIVES TO PRIORITIZE TRAFFIC SAFETY THROUGHOUT CALIFORNIA

Dear President Michael:

The City of Santa Monica supports initiatives to eliminate death and severe injuries on our roadways. Vision Zero and Towards Zero Deaths strategies have been adopted in numerous cities throughout California, leading to the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.


The City of Santa Monica embraced Secretary Anthony Foxx's Mayor's Challenge for *Safer People, Safer Streets* in March 2015. Simultaneously, the Council directed staff to initiate work on Vision Zero and 8-80 cities – a movement created by Gil Penalosa, to make cities that work for people aged 8 to 80. Combined, these two efforts aim to create streets that are safe and comfortable for people in all modes and of all abilities. In February 2016 the Santa Monica City Council adopted a Vision Zero target in our first Pedestrian Action Plan. We are now actively working to incorporate these visionary targets into City operations.

Our City cares deeply about the safety of our people, and their ability to access good, services, education, social networks and employment. Creating a New Model for Mobility is one of the Council's Five Strategic Goals, identified to organize and advance work on our top priorities. A safe mobility network supports our urgent need to provide transportation options that reduce greenhouse gas emissions, and provide equitable access to places and activities that support community Wellbeing. Reducing and ultimately eliminating severe injury and fatal crashes part of a resilient, safe and prosperous community.

Traffic fatalities in America hit a seven-year high in 2015 and is estimated to have exceeded 35,000 people. This is about double the average of peer nations and must be addressed. Safety of our residents and visitors is paramount and this is especially true on the roads and streets of our cities. We must put safety as the top priority for all users of our streets. It is fundamental for the prosperity of California cities as safe, efficient, organized transportation systems are essential for economically vibrant and sustainable communities.

The City of Santa Monica has embraced **Vision Zero/Towards Zero Deaths** and I am in strong support of expanded transportation safety in California cities.

Sincerely,

  
Tony Vazquez  
Mayor



# CITY OF WEST HOLLYWOOD

CITY HALL  
3300 SANTA MONICA BLVD.  
WEST HOLLYWOOD, CA  
90069-6216  
TEL: (323) 848-6460  
FAX: (323) 848-6562

## OFFICE OF THE CITY MANAGER

PAUL AREVALO  
CITY MANAGER

July 21, 2016

The Honorable L. Dennis Michael, President  
League of California Cities  
1400 K Street  
Sacramento, California 95814

### RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING THE ADOPTION AND IMPLEMENTATION OF INITIATIVES TO PRIORITIZE TRAFFIC SAFETY THROUGHOUT CALIFORNIA - SUPPORT

Dear President Michael:

The City of West Hollywood supports the proposed resolution to support the adoption and implementation of initiatives to eliminate death and severe injuries on our roadways. ***Vision Zero*** and ***Towards Zero Deaths*** strategies have been adopted in numerous cities throughout California. Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Traffic fatalities in America hit a seven-year high in 2015, and it is estimated to have exceeded 35,000 people. This is about double the average of peer nations and must be addressed. Safety of our residents and visitors is paramount and this is especially true on the roads and streets of our cities. We must put safety as the top priority for all users of our streets. It is fundamental for the prosperity of California cities as safe, efficient, organized transportation systems are essential for economically vibrant and sustainable communities.

The City of West Hollywood is in strong support of expanded transportation safety in California cities and support the proposed Resolution.

Sincerely,

Paul Arevalo,  
**CITY MANAGER**

c: Honorable Members of the West Hollywood City Council

