

DATE: March 17, 2009

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Authorization to Submit an Application for Funding of Projects from the 2009 American Recovery and Reinvestment Act and Authorization for the Public Works Director to Advertise and Award Projects Related to the 2009 American Recovery and Reinvestment Act

### **RECOMMENDATION**

That Council adopts the attached resolutions that:

1. Authorize the submittal of an application for funding of projects from the 2009 American Recovery and Reinvestment Act (Stimulus);
2. Authorize the Director of Public Works to advertise and award projects; and
3. Appropriates \$2,825,000 to the Stimulus Pavement Rehabilitation Project in the Street System Improvements Fund.

### **BACKGROUND**

In response to the economic downturn that has been plaguing the country for the last several months, Congress has passed a \$789 billion recovery package that seeks to stimulate economic growth and provide jobs. The bill was signed into law by the President on February 17, 2009. Part of the package involves funding for local street and road rehabilitation projects that can be advertised and constructed quickly, thereby, immediately creating employment opportunities and providing much-needed relief to the economy, while making repairs to the City's deteriorated road infrastructure. Because the funds must be obligated very quickly, the Metropolitan Transportation Commission (MTC) has encouraged local agencies to do everything possible to expedite award of contracts to enable construction of projects to begin promptly.

### **DISCUSSION**

The MTC provided the Alameda County Congestion Management Agency (CMA) with preliminary information on the portion of the stimulus package designed to address maintenance shortfalls on local streets and roads. Timelines for obligating (awarding) the funds are extremely important. On January 22, the CMA issued an initial call for projects that was due on January 27. The MTC originally estimated approximately \$140 million would be available for local streets and roads

projects within the nine county Bay Area region, with about \$28 million being allocated to Alameda County.

City staff has been working with the CMA to respond to this initial call for projects. In order to ensure that a sufficient number of projects were identified for implementation, the CMA initially allocated a total of \$40 million for the cities and the county. Both regionally and within Alameda County, the amount to be allocated to each agency is based upon four equally weighted factors: population, lane miles, arterial and collector street funding shortfalls, and performance in accomplishing preventive maintenance as identified by the MTC's Pavement Management Program in which Hayward participates.

On February 24, the CMA clarified that the list of projects in Alameda County to be funded under this program shall add up to \$23.8 million countywide. Hayward's federal share of this amount is \$2.037 million. The cities and the county were asked to resubmit project lists that could meet the program's fast-track schedule. To meet the required deadline, staff used a list of "ready-to-go" projects that was developed using the City's computerized Pavement Management Program. The list of proposed projects includes improvements to portions of Cypress Avenue, Huntwood Avenue, Clawiter Road, and D Street (see Exhibit A). These streets have been identified as qualifying streets that could benefit from additional pavement rehabilitation funds. If additional funding becomes available, the next project on the list would be Industrial Boulevard. The locations of these street segments are shown on the attached maps. It is important to note that only streets on a federal-aid route are eligible for federal stimulus funds.

The MTC has indicated that projects funded with this program shall be awarded for construction within 150 days from February 17, 2009, the date of enactment of the American Recovery and Reinvestment Act. Since this is a substantial deviation from normal timeframes for project delivery, it is critical that City staff use all its efforts to ensure that projects meet the requirements for funding. In addition, as such a large amount of pavement work will be bid at about the same time, it is important to bid as early as possible. The MTC would also like the local recipients of the funds to streamline the process, wherever possible, for advertising and delivery. In response, staff is coming before Council to request authorization for the Director of Public Works to advertise, once Caltrans issues its E-76 funding approval document, and, if appropriate, to award the projects based on our prioritized list of streets and final funding amounts, in order to meet the required timeline.

As with all federal Surface Transportation Program (STP) funding, the MTC is requiring all project sponsors to provide an approval resolution of local support for projects receiving funds from the Economic Stimulus Program. The MTC has developed the standard wording for the attached resolution that all jurisdictions are to adopt as a condition of receiving the Stimulus funding.

In addition, because the project is federally funded, the federal Disadvantaged Business Enterprise (DBE) Program applies. The State, however, has recently determined that the program will be changing. For this project and any other federally-funded projects awarded by June 2, 2009, what has been described as a race-neutral program still applies. After June 2, 2009, a race-conscious program with significant additional requirements will apply. Under the existing program, the City has established a DBE Availability Advisory of 10.5 percent participation. This is the amount for which a DBE could reasonably be expected to compete, in relation to subcontracting opportunities,

and its likely availability for working on this project. Participation is a voluntary goal established as part of the State's race-neutral program and is not a condition of award.

## **PUBLIC CONTACT**

The MTC and the CMA have held various public meetings that provided for public review of their process for allocating Stimulus Funds. Staff provided a Weekly Report to Council on January 29. Staff will also post information on the City's website regarding funding from the 2009 American Recovery and Reinvestment Act.

## **FISCAL AND ECONOMIC IMPACT**

The estimated project costs are as follows:

Construction Contract	\$ 2,630,000
Design and Administration	94,000
Inspection and Testing	101,000
Total	<hr/> \$ 2,825,000

The normal 11.88 percent federal match requirement is not being required for these funds. However, the City will still need to utilize its own funds for the environmental review and design portions of this work that, because of the expedited process, is estimated to be about \$94,000. Additionally, the City will be responsible for all construction-related costs in excess of federal funding of \$2.037 million. In order to meet the expedited award process, an appropriation of \$2,825,000 is requested for a new Stimulus Pavement Rehabilitation Project in the Street System Improvement Fund.

## **SCHEDULE**

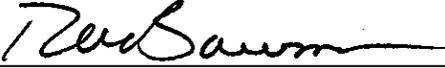
Begin Design	February 2009
Complete Design	March 2009
Call for Bids	April 2009
Receive Bids	May 2009
Award Construction Contract	May 2009
Begin Construction	June 2009
Complete Construction	September 2009

Prepared by:



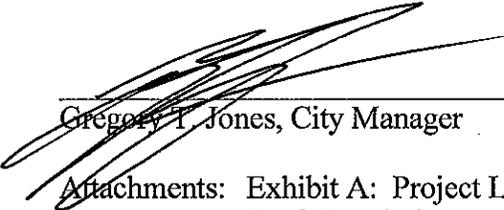
Morad Fakhrai, Deputy Dir. of Public Works

Recommended by:



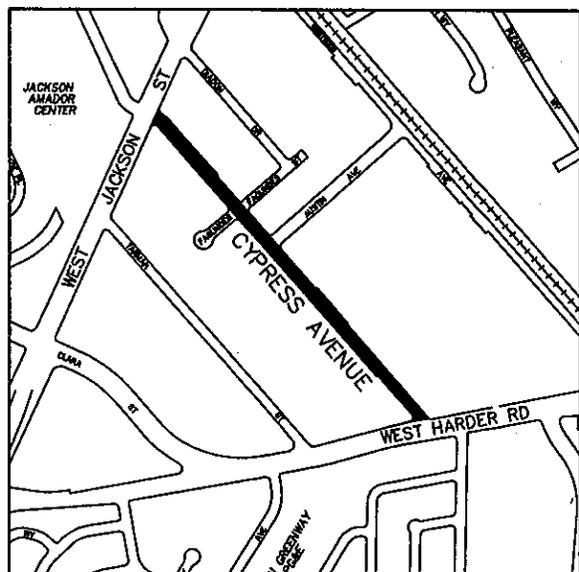
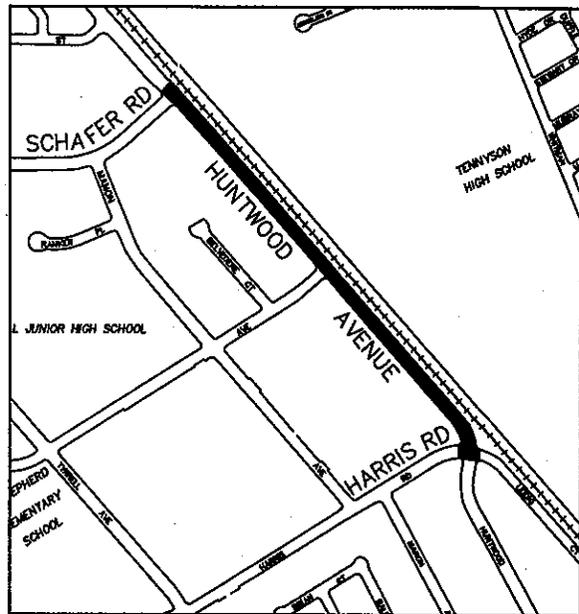
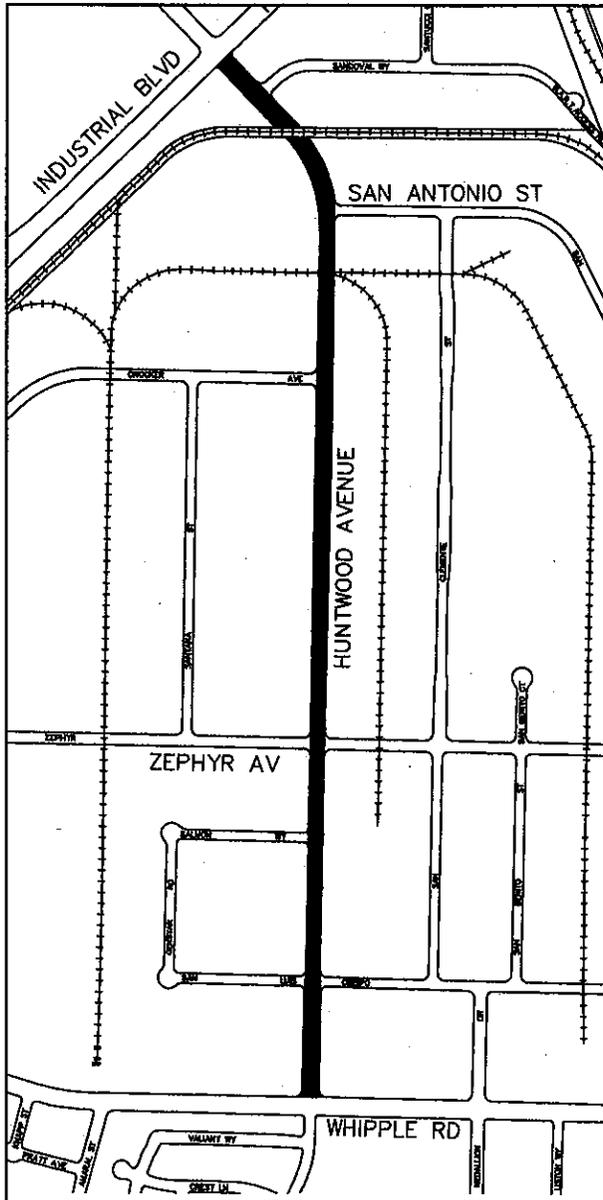
Robert A. Bauman, Director of Public Works

Approved by:

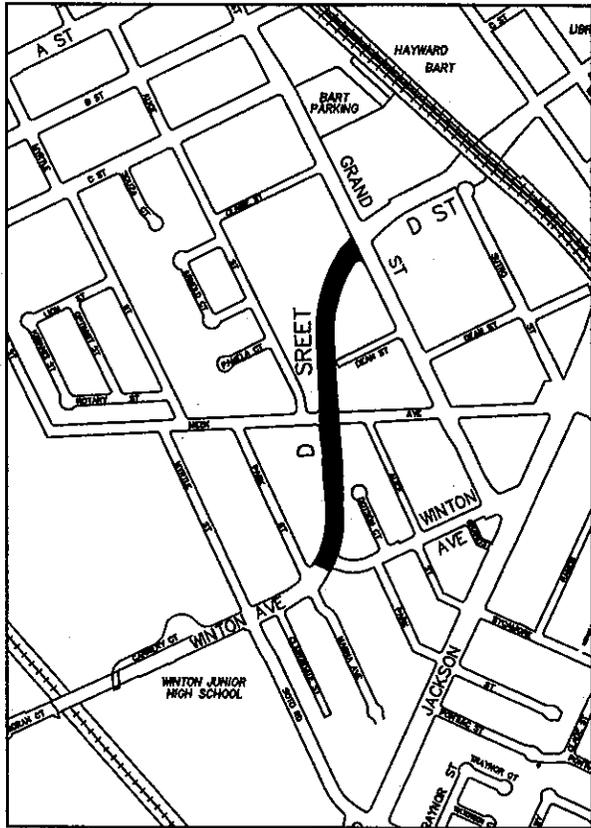
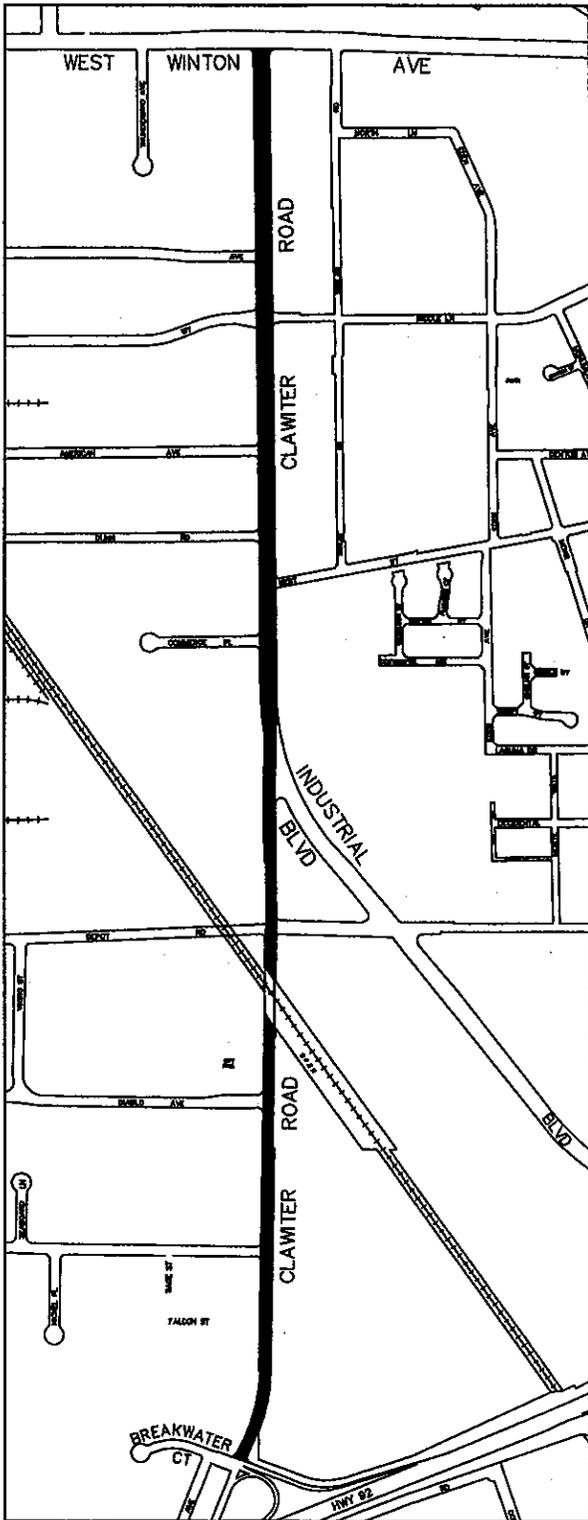


Gregory T. Jones, City Manager

Attachments: Exhibit A: Project Limits Map  
Draft Resolutions



**PAVEMENT REHABILITATION FOR STIMULUS PACKAGE  
PROJECT LIMITS MAP**



**PAVEMENT REHABILITATION FOR STIMULUS PACKAGE  
PROJECT LIMITS MAP**

# DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

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

*me*  
*3/11/09*

RESOLUTION OF LOCAL SUPPORT FOR AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) AND AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) FUNDING AND STATING THE ASSURANCE TO COMPLETE THE PROJECT

WHEREAS, the City of Hayward (the "Applicant") is submitting an application to the Metropolitan Transportation Commission (the "MTC") for approximately \$2,037,000 in funding from the federal American Recovery and Reinvestment Act of 2009 (ARRA) for the Pavement Rehabilitation for Local Streets and Roads (the "Project") for the MTC Regional ARRA Program (MTC Resolution No. 3885) (the "Program"); and

WHEREAS, pursuant to ARRA, and any regulations and/or guidance promulgated thereunder, eligible project sponsors wishing to receive Regional ARRA funds for a project shall submit an application first with the appropriate Metropolitan Planning Organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (the "TIP"); and

WHEREAS, the MTC is the MPO for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) applicable to federal ARRA fund delivery and has adopted (or is scheduled to adopt) in MTC Resolution No. 3885 such additional requirements as are necessary or appropriate to meet the obligations/award deadlines in the ARRA; and

WHEREAS, Applicant is an eligible project sponsor for ARRA funds; and

WHEREAS, as part of the application for ARRA funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

1. That the sponsor understands that the ARRA funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional ARRA or other MTC-programmed funds; and

2. That Project will comply with the procedures specified in MTC's Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and with all project-specific requirements as set forth in MTC's Regional ARRA Program (MTC Resolution No. 3885); and Project as described in the application, and if approved, as included in MTC's TIP; and
3. That Project will comply with all the project-specific requirements as set forth in the federal ARRA and appropriate applicable regulations or guidance.

NOW, THEREFORE, BE IT RESOLVED that the City of Hayward is authorized to execute and file an application for funding under the American Recovery and Reinvestment Act of 2009 for the Pavement Rehabilitation for Local Streets and Roads.

BE IT FURTHER RESOLVED that the Applicant by adopting this resolution does hereby state that:

1. Applicant understands that the ARRA funding for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the Applicant from other funds, and that Applicant does not expect any cost increases to be funded with additional ARRA or MTC-programmed funds; and
2. Applicant understands the funding deadlines associated with these funds and will comply with the applicable provisions and requirements of the Regional ARRA Program (MTC Resolution No. 3885) and Regional Project Funding Delivery Policy (MTC Resolution No. 3606, as revised); and
3. Project will be implemented as described in the complete application and in this resolution and, if approved, for the amount programmed in the MTC federal TIP; and
4. Project will comply with all the project-specific requirements as set forth in the ARRA and appropriate applicable regulations or guidance.

BE IT FURTHER RESOLVED that there is no legal impediment to Applicant making applications for the funds.

BE IT FURTHER RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed Project, or the ability of Applicant to deliver such Project.

BE IT FURTHER RESOLVED that Applicant authorizes the City Manager to execute and file an application with MTC for ARRA funding for the Project as referenced in this resolution.



# DRAFT

## HAYWARD CITY COUNCIL

RESOLUTION NO. 09-

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

*mre*  
*3/11/09*

### RESOLUTION AUTHORIZING THE PUBLIC WORKS DIRECTOR TO ADVERTISE FOR AND AWARD CONTRACTS FOR PROJECTS FUNDED THROUGH THE 2009 AMERICAN RECOVERY AND REINVESTMENT ACT

WHEREAS, the City of Hayward is submitting an application to the Metropolitan Transportation Commission (the "MTC") for approximately \$2,037,000 in funding from the federal American Recovery and Reinvestment Act of 2009 ("ARRA") for pavement rehabilitation for some local streets and roads through the MTC Regional ARRA Program; and

WHEREAS, the MTC has adopted a Regional Project Funding Delivery Policy applicable to federal ARRA fund delivery and has adopted, or is scheduled to adopt, such additional requirements as are necessary or appropriate to meet the obligations/award deadlines in the ARRA; and

WHEREAS, ARRA-funded projects are required to be awarded for construction within 150 days of February 17, 2009, and the MTC has requested that all local recipients of ARRA funds streamline their advertising and awarding processes to the maximum extent possible; and

WHEREAS, in order to meet the strict time lines for project delivery, staff is requesting that the City Council authorize the Public Works Director, upon Caltrans' issuance of its E-76 funding approval document, to advertise and, if appropriate, award the ARRA-funded projects based on the City's prioritized list of streets and final funding amounts.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Hayward that, in order to meet the time lines for ARRA-funded project delivery, the Public Works Director is hereby authorized to advertise and award, upon the issuance of Caltrans' E-76 funding approval document, contracts for street rehabilitation projects funded through the 2009 American Recovery and Reinvestment Act, which contracts shall be in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2009

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

# DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-

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

*mal*  
*3/11/09*

RESOLUTION AMENDING RESOLUTION 08-098, AS AMENDED, THE BUDGET RESOLUTION FOR CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2009 RELATING TO AN APPROPRIATION OF FUNDS FROM THE STREET SYSTEM IMPROVEMENT FUND (FUND 413) TO THE STIMULUS PAVEMENT REHABILITATION PROJECT

BE IT RESOLVED by the City Council of the City of Hayward that Resolution No. 08-098, as amended, the Budget Resolution for Capital Projects for Fiscal Year 2009, is hereby amended by approving an additional appropriation of \$2,825,000 from the Street System Improvement Fund (Fund 413) to the Stimulus Pavement Rehabilitation Project.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2009

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