

## Memorandum

**To:** CHAIR AND COMMISSIONERS

**Date:** May 1, 2010

**From:**   
BIMLA G. RHINEHART  
Executive Director

**File:** Book Item 2.2c (11)  
Action

**Ref:** Final Environmental Impact Report – Route 238 Corridor Improvement Project (Resolution E-10-41)

**ISSUE:** Should the Commission, as a Responsible Agency, accept the Final Environmental Impact Report, Findings and Statement of Overriding Considerations for the Route 238 Corridor Improvement Project (project) in Alameda County and approve the project for future consideration of funding?

**RECOMMENDATION:** Staff recommends that the Commission accept the FEIR, Findings and Statement of Overriding Considerations and approve the project for future consideration of funding.

**BACKGROUND:** The City of Hayward (City) is the CEQA lead agency for the project. The project includes a downtown one-way loop street system, added peak hour travel lanes, improvements at major intersections along the route, pedestrian and bicycle improvements and landscaping. The project would reduce traffic congestion in downtown Hayward and on Foothill Boulevard/Mission Boulevard; improve traffic operations; improve access to the California State University Hayward; provide for bicycle access, and improve pedestrian access in the downtown area.

The FEIR identified significant impacts that are unavoidable and cannot be reduced to a less than significant level with mitigation. The project may contribute to significant cumulative increase in noise at sensitive land uses and the degradation of level of service (LOS) due to roadway configurations. For two roadway segments, under future cumulative conditions, the project is predicted to contribute to an increase in traffic noise of one decibel or more. While the project is forecasted to result in nine fewer LOS F intersections in either the AM or PM peak hours and four fewer LOS F intersections during both peak hours, four intersections would operate under greater delays than under the no project alternative during the AM or PM peak hours or both.

On November 27, 2007, the City Council certified the FEIR, adopted a Statement of Overriding Considerations and approved a Mitigation Monitoring and Reporting Program for the project. The City Council found that the significant and unavoidable impacts associated with the project are outweighed by the project benefits.

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The project is estimated to cost \$98,000,000 and is anticipated to be funded with Local (\$89,900,000) and LATIP (\$8,100,000) funds. Construction is estimated to begin in 2010.

On April 20, 2010, the City confirmed that the selected alternative set forth in the FEIR is consistent with the project scope of work that is anticipated to be programmed for LATIP funding.

#### Attachments

- Resolution E-10-41
- Statement of Overriding Considerations
- Project Location

# CALIFORNIA TRANSPORTATION COMMISSION

## Resolution for Consideration of Future Funding 04– Alameda County Resolution E-10-41

- 1.1 **WHEREAS**, the City of Hayward (City) has completed a Final Environmental Impact Report pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines for the following project:
  - Route 238 Corridor Improvement Project
- 1.2 **WHEREAS**, the City has certified that the Final Environmental Impact Report has been completed pursuant to CEQA and the State CEQA Guidelines for its implementation; and
- 1.3 **WHEREAS**, the project would reduce traffic congestion in downtown Hayward and on Foothill Boulevard/Mission Boulevard; improve traffic operations; improve access to the California State University Hayward; provide for bicycle access, and improve pedestrian access in the downtown area; and
- 1.4 **WHEREAS**, the California Transportation Commission, as a Responsible Agency, has considered the information contained in the Final Environmental Impact Report; and
- 1.5 **WHEREAS**, Findings of Fact made pursuant to CEQA guidelines indicate that specific unavoidable significant impacts related to noise and transportation/traffic circulation make it infeasible to avoid or fully mitigate to a less than significant level the effects associated with the project; and
- 1.6 **WHEREAS**, the City adopted a Statement of Overriding Considerations for the project; and
- 1.7 **WHEREAS**, the City adopted a Mitigation Monitoring and Reporting Program for the project; and
- 1.8 **WHEREAS**, the above significant effects are acceptable when balanced against the facts as set forth in the Statement of Overriding Considerations.
- 2.1 **NOW, THEREFORE, BE IT RESOLVED** that the California Transportation Commission does hereby accept the Final Environmental Impact Report, Findings of Fact and Statement of Overriding Considerations and approve the above referenced project to allow for future consideration of funding.

HAYWARD CITY COUNCIL

RESOLUTION NO. 07-165

Introduced by Council Member Quirk

**RESOLUTION CERTIFYING THE FINAL  
ENVIRONMENTAL IMPACT REPORT, ADOPTING A  
STATEMENT OF OVERRIDING CONSIDERATIONS,  
APPROVING THE MITIGATION MONITORING AND  
REPORTING PROGRAM AND APPROVING THE ROUTE  
238 CORRIDOR IMPROVEMENT PROJECT**

WHEREAS, the Route 238 Corridor Improvement Project is located along Foothill Boulevard and Mission Boulevard between the City limits and Industrial Parkway and, among other improvements, includes a downtown one-way loop street system, added peak hour travel lanes on Foothill Boulevard, improvements at major intersections along the route, pedestrian and bicycle improvements and landscaping; and

WHEREAS, a Draft Environmental Impact Report ("DEIR") was prepared to assess the potential environmental impacts of the Route 238 Corridor Improvement Project, describing alternatives and potential mitigation measures; and

WHEREAS, the DEIR was circulated among the public and regulatory agencies as required by law, the City Council reviewed and commented on the DEIR at work sessions held on April 10 and 17, 2007, and the Planning Commission reviewed and commented on the DEIR at a public hearing held on April 26, 2007; and

WHEREAS, in response to comments received during the public comment period, staff revised the Route 238 Corridor Improvement Project, which revisions include, most notably, the elimination of the two partial grade separations, the reduction and/or elimination of peak-hour parking restrictions, and the modification of the alignment of D Street and Foothill Boulevard, which revisions were reviewed and commented on by the City Council at a work session held on July 17, 2007; and

WHEREAS, the comments to the DEIR and responses thereto have been incorporated into the Final Environmental Impact Report (the "FEIR"), which the City Council reviewed at a work session on October 23, 2007; and

WHEREAS, notice of the hearing on the FEIR and the Route 238 Corridor Improvement Project was published in the manner required by law and the hearing was duly held by the City Council on November 27, 2007.

NOW, THEREFORE, the City Council hereby adopts the following findings and actions:

I. **FEIR CERTIFICATION.** The City Council has reviewed the documents comprising the DEIR and FEIR and hereby finds that such FEIR reflects the independent judgment of the City Council and its staff, and is an adequate and extensive assessment of the environmental impacts of the Route 238 Corridor Improvement Project. Accordingly, the City Council hereby certifies such FEIR as having been prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA"). The City Council also incorporates by this reference the findings contained in the FEIR as to the environmental effects of the Route 238 Corridor Improvement Project, together with the additional findings contained in this Resolution.

II. **CONSIDERATION OF PROJECT ALTERNATIVES.** The FEIR evaluated the potential impacts of the 238 Route Corridor Improvement Project, including project alternatives, as follows:

Alternative No. 2: No-Project Alternative. The No-Project Alternative would consist of some planned intersection improvements at Mattox Road and Foothill Boulevard and Carlos Bee Boulevard and Mission Boulevard, and the construction of the Tennyson Road extension.

Alternative No. 3: Expanded Loop. The Expanded Loop Alternative would consist of all the originally proposed project improvements (except A Street one-way) in addition to the following improvements: Foothill Boulevard would be one-way northbound from A Street to Mattox Road, with on-street parking retained; Mission Boulevard would be one-way southbound from Mattox Road to A Street, with on-street parking prohibited on Mission Boulevard between Rose Street and A Street; Mattox Road would be one-way westbound from Mission Boulevard to Foothill Boulevard; and A Street would be two-way from Mission Boulevard to Foothill Boulevard (same as existing condition).

Alternative No. 4: Full Grade Separation with No Downtown Widening Alternative. The Full Grade Separation with No Downtown Widening Alternative would consist of the original proposed project improvements on Foothill Boulevard north of A Street; a two-directional grade separation of through traffic at Jackson Street/Foothill Boulevard under Mission Boulevard; a grade separation of through traffic on Jackson Street under Watkins Street; the original proposed project improvements on Mission Boulevard south of Jackson Street/Foothill Boulevard; and the No-Project conditions on Foothill Boulevard south of A Street to D Street.

Alternative No. 5: Transit Alternative. The Transit Alternative would consist of the No-Project geometric improvements in addition to the following transit improvements: Shuttles from BART stations to CSUEB, operating on 10-minute peak period headways, with signal priority to speed service and some bus rapid transit features such as low floors and proof of

payment; increased service on the cross-Bay Alameda-Contra Costa Transit (AC Transit) Line M Express Bus; and increased service on AC Transit Line 83, Line 92 and Line 99.

The Route 238 Corridor Improvement Project, is the environmentally superior alternative because the majority of the impacts related to the project are traffic impacts and the proposed project has the fewest traffic impacts. Impacts on other resources are generally similar among the alternatives; with the exception of the Transit Alternative. The Transit Alternative avoids the physical impacts associated with the construction of the proposed project; however, it does not improve traffic conditions in the corridor as well as the proposed project. In addition, the revisions to the Route 238 Corridor Improvement Project incorporated after review of the DEIR reduce the potential impacts related to the D Street alignment; the elimination of the grade separation reduces impacts on traffic and local businesses during construction; and the revisions to the peak-hour parking restrictions reduces and/or avoids potential impacts to local businesses along Mission Boulevard.

### **III. FINDINGS ON POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS.**

The City Council also finds that the proposed mitigations set forth in the FEIR and incorporated into the accompanying Mitigation Monitoring and Reporting Plan will avoid the significant environmental impacts of implementing the Route 238 Corridor Improvement Project or reduce those impacts to a less-than-significant level. The potentially significant impacts identified in the DEIR and FEIR are as follows.

- A. **Air Quality.** The FEIR discusses Air Quality impacts at Section 3.2. According to the FEIR, the slightly decreased vehicle miles traveled as a result of the elimination of the grade separation and peak hour lanes south of Carlos Bee Boulevard, along with the implementation of BAAMQD Control measures for construction emissions of fugitive dust and the implementation of construction emissions control technology should reduce these impacts to a less-than-significant level, and the City Council so finds.
- B. **Biological Resources.** The FEIR discusses Biological Resources impacts at Section 3.3. According to the FEIR, the potentially significant impact to migratory birds can be offset by a preconstruction nest survey, as required by the Mitigation Monitoring and Reporting Plan. The City Council finds that this measure will mitigate the impact on biological resources to a less-than-significant level.
- C. **Cultural Resources.** The FEIR discusses Cultural Resources impacts at Section 3.4. According to the FEIR, the elimination of the grade separation will eliminate the need for extensive excavation. The recommended measures in the Mitigation Monitoring and Reporting Plan, as more fully set forth therein, include the preparation of a cultural resources monitoring plan; a cessation of ground-disturbing work if cultural resources are discovered and compliance with

state laws pertaining to the discovery of human remains. The City Council finds that these measures will mitigate the impact on cultural resources to a less-than-significant level.

**D. Hazards and Hazardous Materials.** The FEIR discusses potential hazards and hazardous materials impacts at Section 3.6. According to the FEIR, construction activities, such as excavation, demolition and grading activities have been greatly reduced as a result of the elimination of the grade separation and the retention of the Bay Cities Credit Union building. The recommended measures in the Mitigation Monitoring and Reporting Plan, as more fully set forth therein, include an asbestos survey; a lead-based paint survey and a soil contamination investigation; immediate spill containment and disposal at an approved facility; the development and implementation of plans to reduce exposure to hazardous materials; and the notification of emergency response providers of project construction. The City Council finds that these measures will mitigate the impact of hazards and hazardous materials to a less-than-significant level.

**E. Geology, Minerals and Soils.** The FEIR discusses Geology, Mineral and Soils impacts at Section 3.5. According to the FEIR, the elimination of the grade separation will eliminate the need for retaining walls and result in less-than-significant impacts relative to slope failures and fault creep, eliminating the need for mitigation measures related to these impacts. The City Council finds that the proposed revisions to the Route 238 Corridor Improvement Project will reduce the impacts to geology, minerals and soils to a less-than-significant level.

**F. Hydrology and Water Quality.** The FEIR discusses Hydrology and Water Quality impacts at Section 3.7. According to the FEIR, the elimination of the grade separation would result in less excavation and grading during construction and decreased impervious structures and flood hazards from a permanent structure. The mitigations measures set forth in the Mitigation Monitoring and Reporting Plan include the implementation of Best Management Practices to control discharge of construction-related pollutants to surface waters; the implementation of a Hazardous Spill Prevention and Control Program; the implementation of measures to protect water quality during construction dewatering; and the implementation of measures to manage water quality impacts on local creeks. The City Council finds that these measures will mitigate the impacts on hydrology and water quality to a less-than-significant level.

**G. Noise.** The FEIR discusses Noise impacts at Section 3.9. According to the FEIR, exposure of noise-sensitive land-uses to vibration and noise during construction activities is a potentially significant impact. The mitigations

measures set forth in the Mitigation Monitoring and Reporting Plan include implementing measures to limit ground-borne vibration from highly dynamic construction activities; employing noise-reducing construction practices; preparation of a Noise Control Plan and the dissemination of essential information to residents and the implementation of a complaint/response tracking program. The City Council finds that these measures will mitigate the impacts of noise to a less-than-significant level, except as described in Section IV below.

H. Public Services. The FEIR discusses Public Services impacts at section 3.10. According to the FEIR, the elimination of the grade separation would substantially reduce impacts on utility infrastructure disruption and emergency service provider access during the construction period. The proposed mitigation of this impact is the coordination with the appropriate utility service providers and related agencies to reduce service interruptions. The City Council finds that this measure will mitigate the impacts on public services to a less-than-significant level.

I. Transportation. The FEIR discusses Transportation impacts at Section 3.11. According to the FEIR, the number of intersections operating at LOS F in the AM and PM peak hours will be significantly reduced. The elimination of the grade separation will also eliminate barriers to existing bicycle movements and reduce traffic impacts during construction. The mitigations measures set forth in the Mitigation Monitoring and Reporting Plan include the development and implementation of a Traffic Management Plan; the posting of guide sign for bus passengers directing them to the rerouted bus service and the relocated bus stop on B Street and Mission Boulevard and the installation of an additional bike route and signs to guide future eastbound bicycle movements from A Street. The City Council finds that these measures will mitigate the impacts on transportation to a less-than-significant level, except as described in Section IV below.

#### **IV. POTENTIALLY UNAVOIDABLE SIGNIFICANT ENVIRONMENTAL IMPACTS.**

The FEIR indicates two impacts that are significant and unavoidable:

- **Impact N-2: Contribute to Significant Cumulative Increase in Noise at Sensitive Land Uses.** The DEIR states that under future cumulative conditions significant traffic noise impact is considered to occur along two roadway segments - Mission/Carlos Bee to Torrano Avenue and Mission/Jefferson/Calhoun to Hancock Street. Because implementation of the Route 238 Corridor Improvement Project is predicted to contribute to an increase in traffic noise of one decibel (db) or more along the roadway segments, the project's contribution to significant cumulative traffic noise is cumulatively considerable.

• **Impact TR-2: Degradation of Level of Service (LOS) Due to Roadway Configurations.** The proposed project is forecast to significantly reduce the number of intersections operating at LOS F in the AM and PM peak hours by 2025, compared to the No Project alternative. The proposed project is forecasted to result in nine fewer LOS F intersections in either the AM or PM peak hours and four fewer LOS F intersections during both peak hours. However, the following four intersections would operate under greater delays than under the No-Project alternative during either the AM or PM peak hours or both: Foothill Boulevard/Mattox Road; Foothill Boulevard/Grove Way; Mission Boulevard/A Street; and Mission Boulevard/D Street.

Although the overall effect of the Route 238 Corridor Improvement Project would act to reduce travel times experienced by drivers throughout the corridor, certain intersections will experience impacts that are considered significant under CEQA. Since further improvements to these intersections would require the taking of additional right-of-way, there are no feasible mitigation measures to reduce this impact to less than significant without causing other impacts therefore it is considered significant and unavoidable.

**V. STATEMENT OF OVERRIDING CONSIDERATIONS.** The City of Hayward adopts and makes this Statement of Overriding Considerations related to the adoption of the project and the resulting unavoidable and significant impacts relating to noise and regional traffic, in order to explain why the benefits of implementing the Route 238 Corridor Improvement Project override and outweigh such impacts.

**POTENTIALLY UNAVOIDABLE SIGNIFICANT ENVIRONMENTAL IMPACTS.**

The FEIR indicates that all potential significant impacts can be eliminated to less-than-significant levels, with the exception of impacts associated with intersection Level of Service (LOS) at four intersections along the project corridor and cumulative traffic noise resulting from overall increases in traffic due to regional growth.

Existing conditions indicate that two intersections along the project corridor currently operate at LOS F. As shown in the FEIR, cumulative conditions in 2025 without the project (future baseline conditions) indicate that 15 intersections out of 31 along the project corridor would have an LOS of F in either the AM or PM peak hour (seven of which would have LOS F conditions at both peaks). Future conditions with the proposed project show a substantial reduction in substandard LOS operations in the project area. In the proposed project scenario, six intersections would operate at LOS F in either the AM or PM peak hour (of which three would have LOS F conditions at both peaks). Compared to the no project conditions, the Route 238 Corridor Improvement Project would result in nine fewer intersections with LOS F conditions at either the AM or PM peak hour and four fewer intersections with LOS F conditions at both peaks. Although the overall effect of the proposed project would act to improve travel times experienced by drivers through the corridor, certain intersections will experience impacts that are considered significant under CEQA. Specifically, four intersections would operate with worse delay than under the no-project alternative, including Foothill Boulevard/Mattox Road, Foothill Boulevard/Grove Way, Mission Boulevard/A Street,

and Mission Boulevard/D Street. For these four intersections further improvements to accommodate the additional traffic volumes would cause unacceptable right-of-way impacts. Thus, further mitigation of these intersections to achieve more acceptable LOS is considered to be infeasible; therefore, this impact is significant and unavoidable.

The traffic noise modeling results presented in the DEIR indicate that traffic noise under future cumulative conditions would exceed City noise compatibility standards and would increase by 3 dB, or more, compared to existing conditions along some roadway segments. Significant cumulative traffic noise impacts are therefore considered to occur along these roadway segments. Because implementation of the proposed project is predicted to contribute to an increase in traffic noise along these roadway segments of 1dB or more, the project's contribution to significant cumulative traffic noise impacts is cumulatively considerable. A potential mitigation measure to reduce exterior traffic noise along these two segments would be the construction of sound walls. However, it is anticipated that the sound walls cannot be implemented due to the locations of driveways, commercial buildings, etc. For this reason, the cumulative impact is considered to be significant and unavoidable, and the Route 238 Corridor Improvement Project makes a considerable contribution.

The City has sought a solution to the issue of the projected increased traffic congestion in Hayward for many years. Each of the approaches evaluated has some benefit but also had some negative aspects. With each iteration of the project, those concerns have been reduced to the point where most have been eliminated. Adoption and implementation of the Route 238 Corridor Improvement Project will provide substantial benefits for the City by addressing future traffic congestion without adding more pavement and without taking significant amount of right-of-way.

Adoption of the Route 238 Corridor Improvement Project would reduce traffic congestion in downtown Hayward and on Foothill Boulevard/Mission Boulevard; improve traffic operations at the Mission Boulevard/Foothill Boulevard/Jackson Street intersection; construct a facility that will accommodate current and future traffic demands as permitted by funding constraints; improve access to the California State University campus in Hayward; provide for bicycle access along Mission Boulevard and Foothill Boulevard; and improve pedestrian access in the downtown area.

Although some intersections would operate at greater delay in the future with the project, the project would result in beneficial improvements to travel times through the corridor overall and would improve far more intersections that it would adversely affect.

Additionally, the Route 238 Corridor Improvement Project allows the City to make downtown Hayward more pedestrian-friendly by constructing wider sidewalks and providing more walk time at traffic signals, as well as improving the overall street scape. In addition, the proposed project allows the City to address the critical intersection of Foothill/Mission/Jackson without the costs and the impacts of constructing a grade separation.

For all the foregoing reasons, the City Council of the City of Hayward finds that the significant and unavoidable impacts associated with the Route 238 Corridor Improvement Project are outweighed by the benefits above identified and adopts this statement of overriding considerations.

VI. MITIGATION MEASURES. The City Council also finds that the proposed mitigations set forth in the FEIR for the project and the accompanying Mitigation Monitoring and Reporting Plan will reduce all of the environmental impacts of the Route 238 Corridor Improvement Project to an insignificant level, with the exception of those impacts identified above that are significant and unavoidable. The City Council approves the mitigation measures and Mitigation Monitoring and Reporting Plan as conditions of approval of the Route 238 Corridor Improvement Project, and requires the implementation of the Route 238 Corridor Improvement Project and subsequent design and advertisement to incorporate the mitigation measures set forth in the Mitigation Monitoring and Reporting Plan (Exhibit "A").

VII. ADMINISTRATIVE RECORD. A copy of the FEIR, staff reports and communications to the Planning Commission and City Council are on file in the office of the City Clerk. In addition, other documents comprising the administrative record in this matter are on file in the office of the Public Works Department.

NOW THEREFORE, the City Council of the City of Hayward, based on the foregoing findings, hereby approves the Route 238 Corridor Improvement Project, with the proposed modifications, and directs staff to take all steps necessary to implement the Route 238 Corridor Improvement Project.

IN COUNCIL, HAYWARD, CALIFORNIA November 27, 2007

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Rodriguez, Quirk, Halliday, Dowling,

NOES: COUNCIL MEMBERS: Ward, Henson  
MAYOR: Sweeney

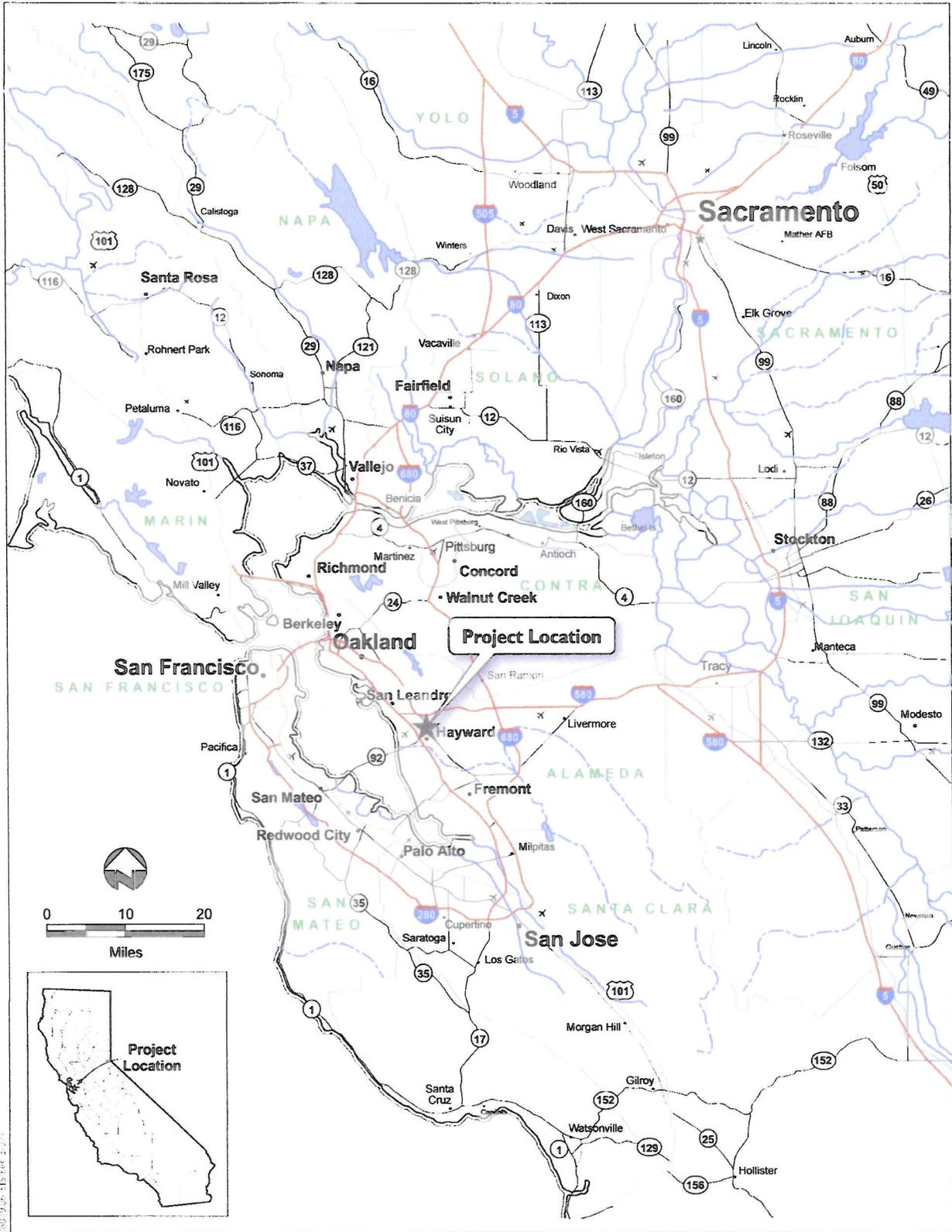
ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST: Angelina Faye  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

Ma Tomney  
City Attorney of the City of Hayward



3/8/19, 06:45:42, 2:40

**Figure ES-1**  
**Project Vicinity Map**