



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Albert Balagso
Larry D. Lisenbee

SUBJECT: SEE BELOW

DATE: 04-13-07

Approved

Date

4/16/07

COUNCIL DISTRICT: 3
SNI AREA: N/A

SUBJECT: AUTHORIZATION FOR THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE AGREEMENT WITH THE SANTA CLARA VALLEY WATER DISTRICT (SCVWD) FOR CONSTRUCTION OF THE AIRPORT PARKWAY UNDER-CROSSING TRAIL PROJECT TO INCREASE FUNDING FOR THE PROJECT IN AN AMOUNT NOT TO EXCEED \$601,000 FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$2,375,500 AND ADOPTION OF APPROPRIATION ORDINANCE AMENDMENTS IN THE CONSTRUCTION TAX AND PROPERTY CONVEYANCE TAX FUND: PARKS PURPOSES COUNCIL DISTRICT 4 AND THE AIRPORT RENEWAL AND REPLACEMENT FUND

RECOMMENDATION

1. Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with the Santa Clara Valley Water District for the construction of the Airport Parkway Under-Crossing Trail project to increase funding for the project in an amount not to exceed \$601,000 for a total contract amount not to exceed \$2,375,500.
2. Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 4 (Fund 381):
 - a. Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the TRAIL: Airport Parkway Under-Crossing project in the amount of \$179,000; and
 - b. Decrease the Ending Fund Balance by \$179,000.

3. Adoption of the following Appropriation Ordinance amendments in the Airport Renewal and Replacement Fund (Fund 527):
 - a. Increase the appropriation to the Airport Department for the TRAIL: Airport Parkway Trail Undercrossing project by \$179,000; and
 - b. Decrease the Ending Fund Balance by \$179,000.

OUTCOME

Approval of the amendment and associated appropriation actions will provide the additional funding necessary to complete the Airport Parkway Under-Crossing Trail project being implemented by the Santa Clara Valley Water District (SCVWD) on behalf of the City. Construction of the project will permit continuous trail access from Highway 880 to Gold Street as defined by the Lower Guadalupe River Trail Master Plan approved by the City Council on June 21, 2005.

EXECUTIVE SUMMARY

This memorandum recommends that the City Council adopt a resolution authorizing the City Manager to negotiate and execute an amendment to an existing agreement with the SCVWD which provides for the implementation and construction of the Airport Parkway Under-Crossing Trail project by the SCVWD. The agreement was executed on March 6, 2007. The amendment would provide additional funds in an amount up to \$601,000 to supplement the existing agreement's funding and increase its total to \$2,375,500.

Additional funding is needed for the project because the four bids from four contractors for the project that were opened by the SCVWD on March 28, 2007 were significantly higher than the City's consultant had estimated. The additional funding being sought will permit the City to provide sufficient funding for the SCVWD to award the construction contract and complete the project prior to the expiration of permits in October 2007.

Construction of the project this summer will permit continuous access along the six-mile interim Lower Guadalupe River Trail as defined by the project master plan approved by the City Council on June 21, 2005 (Item No. 2.14).

In order to support the amendment, this memorandum includes a recommendation to appropriate a total of \$358,000 (\$179,000 each from the Council District 4 Construction and Conveyance Tax Fund and the Airport renewal and Replacement Fund) for construction costs. Additionally, the Department of Transportation will allocate an additional \$243,000 to the project (\$178,000 for construction and \$65,000 for additional SCVWD's project management costs) from the existing North San Jose Deficiency Plan Improvements appropriation.

The SCVWD has obtained permits for the project and intends to construct a similar under-crossing at nearby Highway 101 during the summer 2007. The transfer of funds by the City permits the SCVWD to award a single contract for both projects.

BACKGROUND

The Airport Parkway Under-Crossing Trail project remedies a barrier for continuous trail access along the Lower Guadalupe River Trail system. The project's master plan defined an under-crossing and surface improvements as the best means to transition trail users across the river and make use of existing under-crossings along the remaining 6 miles of the trail system. The Lower Guadalupe River Trail system links Alviso to the Guadalupe River Park. The lack of improvements at Airport Parkway and Highway 101 prevent continuous access along the SCVWD maintenance roads which will serve as an interim trail and define the alignment for a future paved trail system. Being bid along with the Airport Parkway element as one contract, the SCVWD seeks to construct the Highway 101 under-crossing also this summer. The Highway 101 element permits continuous trail access but serves primarily as a facility for the SCVWD to maintain the waterway, hence SCVWD will fund that element in its entirety. The approved agreement secures City funding to construct all improvements at Airport Parkway and the SCVWD funds all improvements at Highway 101.

On December 13, 2005, the Department of Public Works executed a Service Order with CH2M-Hill, Inc. under an approved master agreement (Item No. 5.3 (b)). Selection of the firm was determined in part by its experience in developing the flood control plan along the Lower Guadalupe River for the SCVWD. The engineering consultant firm was hired to prepare construction documents for the Airport Parkway Under-Crossing and associated trail crossing improvements as defined by the Lower Guadalupe River Trail Master Plan.

An additional Service Order with CH2M-Hill, Inc. was executed on December 19, 2006 under an approved master agreement approved by the City Council on June 20, 2006 for additional work associated with the completion of the construction documents, and bid and construction assistance for the Airport Parkway Under-Crossing project.

On December 6, 2006, the City Council adopted a resolution authorizing the City Manager to negotiate and execute an agreement with SCVWD to provide \$1,839,500 for construction of the Airport Parkway Under-Crossing. On March 6, 2007 the City and SCVWD executed the agreement that requires among other things, the following:

- SCVWD to bid, award and manage a construction contract for improvements at Highway 101 for SCVWD flood control purposes and Airport Parkway, on behalf of the City for recreational trail purposes,
- City to create an escrow account and deposit \$1,789,500 to fund the Airport Parkway improvements,
- City to reserve \$50,000 for construction inspection services provided by City staff,
- City and SCVWD to adhere to a schedule for delivery of the project,

- SCVWD to manage the project per the Procedural Guide for the 2002 Resources Bond Act – Per Capita Program (a grant funding source secured by the City of San Jose for use on the project).

On March 28, 2007, the SCVWD opened bids and determined that the lowest bid was significantly greater than the \$2,451,175 engineer's cost estimate for the total project (Airport Parkway and Highway 101 Under-Crossings) and the line items for the City's share of work exceeded its estimated contribution (engineer's estimate was \$1,415,000).

ANALYSIS

Development of the Airport Parkway project has been on-going for several years and the project's design has been driven by the knowledge that funding sources were limited for its development. During this period, City staff, the City's consultant and the SCVWD have worked cooperatively to prepare construction documents for a project that aligned as best as possible with available funding sources. At several stages during the design process, staff has made alterations to the project scope to reduce the project cost while minimally impacting the project's functionality. Alterations included:

- Reduction of the width of the trail improvements located on the Airport Parkway Bridge from 12' to 10' in width.
- Reduction of the under-crossing's vertical clearance from 12' to 8' in order to reduce the length of the approach ramps
- Alteration of the retaining wall height, as permitted by the reduced vertical clearance
- Elimination of a maintenance vehicle curb cut along Airport Parkway.
- Elimination of roadway striping by coordinating with DOT to have the work done as part of regularly scheduled preventative maintenance work.
- Elimination of a median island barrier along Airport Parkway through the extension of shoulder fencing to prevent at-grade crossing by trail users.

The project's scope is basically the paved under-crossing beneath Airport Parkway and a defined trail on the existing bridge structure. Upon reviewing the bid results, City staff contemplated elimination of the surface improvements in order to be able to fund the project with the available funding. This would not be an optimum solution, but the existing narrow sidewalk would at least provide a means for pedestrian access until a future date when additional improvements could be funded. However, in order for the City to revise the scope of the project, the SCVWD would need to rebid the project. This would present a schedule delay that would likely impact the entire feasibility of the project as discussed further below.

In November 2006, the City's consultant, CH2M-Hill, prepared a preliminary cost estimate for the joint project and delineated the costs associated with the Airport Parkway improvements. It is important to note that the preliminary cost estimate was not based on the final set of plans. In order to meet the schedule for bidding of the project by the SCVWD, it was necessary to secure the City Council's authorization late in 2006 to offer the City Manager the flexibility to negotiate

and execute the agreement with the SCVWD at a later time. The Council Memorandum in support of the agreement with SCVWD included a companion action appropriating funds to support construction of the project. The amount authorized by the appropriation action was believed to be a conservative and appropriate level of funding for the project's construction based on recent contract awards and a relatively thorough knowledge of the project's scope. This approach ensured that the agreement would be ready in time for the SCVWD to proceed with bidding but offered a degree of risk regarding the City's actual contribution amount for the project.

In negotiating the agreement, the SCVWD informed the City that a 15% charge based on the contract award would be required to fund project management expenses. This amount was deemed to be appropriate and consistent with projects of similar complexity and scope. The charge could be absorbed by the available funding but reduced the City's ability to address bids that would be significantly above the construction cost estimate.

At the time that construction documents were completed, a final cost estimate for the Airport Parkway Under-Crossing project was prepared. The project was calculated to cost \$1,415,000. Due to the recent volatility of bids, the Department of Public Works recommended that a 30% contingency be in place, which would increase the construction total for the City's share of the project to \$1,839,500. This figure included \$50,000 for project management and inspection by City staff. The SCVWD bid package included a contingency reserve so it was anticipated that the City's contribution would be sufficient to cover any unforeseen circumstances.

In January 2007, the SCVWD advertised the project for bids. Thirty construction contractors secured sets of plans and specifications. On March 28, 2007, the SCVWD opened four bids for the project with the following result. The table indicates the City's share of the project, which includes the bid items and the SCVWD's 15% project management charge as negotiated by the initial agreement.

Construction Contractor	Total Bid	City Share
William P. Young, Inc. (Concord, CA)	\$2,983,003	\$2,325,980
Gordon N. Ball, Inc. (Alamo, CA)	\$3,097,720	\$2,139,264
HSR, Inc. (Santa Clara, CA)	\$3,205,037	\$2,294,682
Proven Management Inc. (San Francisco, CA)	\$3,505,958	\$2,493,548
<i>Engineer's Estimate</i>	<i>\$2,451,175</i>	<i>\$1,790,797</i>

The SCVWD has determined that the lowest bidder is responsive. The lowest bid received is \$536,480 over the \$1,789,500 amount designated and appropriated for construction by the City Council in December. This memorandum includes a recommendation to appropriate a total of \$358,000 (\$179,000 each from the Council District 4 Construction and Conveyance Tax Fund and the Airport Renewal and Replacement Fund) for construction costs. Additionally, the Department of Transportation will allocate an additional \$243,000 to the project (\$178,000 for construction and \$65,000 for additional SCVWD's project management costs) from the existing

North San Jose Deficiency Plan Improvements appropriation.

Often, when bids are received that are higher than anticipated, the City may consider revising the project scope and bidding the project once again. In this case, permits secured for construction expire in October and there is insufficient time to rebid and/or redesign the project. As some background, the Regional Water Quality Control Board (RWQCB, a State Resource Agency) governs work within the waterway and issues permits. The SCVWD has secured permits that allow construction to occur between June 1 and October 15. This short construction duration is intended to protect species that inhabit the waterway. In order for construction to take place within this five-month period, the SCVWD must award the construction contract no later than May 1 so that all submittals are approved in advance of the start of work. Renewal of the permit for the summer of 2008 does not appear feasible per discussions with RWQCB. The project includes wire mesh-encased stone retaining walls. Such walls are no longer supported by the RWQCB and a redesign would be required to secure new permits. A delay in proceeding with the project at this time would increase the risk of inflation further increasing future bids.

The project is deemed a high priority per the Trail Program's Council-approved Prioritization Process, because the project:

- Completes a trail reach that permits continuous access to over six miles of new trail, and links directly to 2.6 miles of trail within the Guadalupe River Park;
- Provides a suitable alternative commute route for residents of high density housing in the north San Jose area;
- Provides a pedestrian/bicycle facility consistent with the Airport Pedestrian Bicycle Master Plan and the Lower Guadalupe River Trail Master Plan; and
- Is time sensitive since existing permits for the construction of the project expire in October 2007.

The amended agreement will include a provision to transfer to the SCVWD the entire balance required to fund the City's share of the low bid contract. Since the actual amount of award is known at this time, the establishment of an escrow account as envisioned by the initial agreement is no longer necessary. This will enable the SCVWD to encumber the funds necessary to award the contract for construction of the project.

This memorandum includes a recommendation to appropriate an additional \$358,000 (\$179,000 each from the Council District 4 Construction and Conveyance Tax Fund and the Parks City-wide Construction and Conveyance Tax Fund). Council District 4 C&C funds are being proposed for this project as this project is adjacent to Council District 4 and will be the connecting link for the trail between Downtown and Alviso. This will supplement the Council District 3 C&C funding already allocated to the project. In addition, the Department of Transportation is allocating \$243,000 of the existing \$1,765,000 budgeted for the North San Jose Deficiency Plan Improvements appropriation for the project, bringing the total additional funds to \$601,000.

The SCVWD bid results include a \$200,000 line item for extra work associated with the Airport

Parkway Under-Crossing element of the project. This amount provides a 10% contingency for any unforeseen circumstances. Per the terms of the initial agreement, the City Manager and the SCVWD CEO will convene a meeting to discuss funding options should circumstances require funding beyond this balance.

POLICY ALTERNATIVES

Alternative #1: Do nothing.

Pros: Taking no action at this time eliminates the need to allocate additional funds and process an agreement amendment.

Cons: Not pursuing the allocation of additional funds and an agreement amendment makes it infeasible for the SCVWD to award a construction contract for the Airport Parkway improvements. This action also potentially prevents the SCVWD from awarding a reduced-scope contract for the Highway 101 Under-Crossing since it accounts for only 30% of the total project's construction bid amount.

Reason for not recommending: This alternative is inconsistent with the Lower Guadalupe River Master Plan and Airport Pedestrian Bicycle Master Plan, both approved by Council and both indicating the Airport Parkway improvements.

Alternative #2: Reduce project scope.

Pros: A strategic elimination of certain bid items can reduce the cost of awarding a construction contract.

Cons: Staff reviewed all project elements and determined that the paved under-crossing was the highest priority element to develop prior to permit expiration. Elimination of at-grade bridge improvements and associated trail linkages would reduce the project bid by about \$250,000. The revised bid amount would still exceed the funding currently appropriated by the City Council. Additionally, the elimination of at-grade improvements would make the under-crossing inaccessible for trail users.

Reason for not recommending: A scope reduction does not lead to an awardable contract and prevents use of the under-crossing improvements.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires action on the use of public funds equal to \$1 million or greater
(Required: Website Posting)
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council

or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This project does not fall under any of the specific criteria as less than \$1 million is being added to the project as part of this action. However, this memorandum is posted to the City's website for the May 1, 2007 Council agenda. Additionally, a community meeting was conducted in August 2004 to solicit input on the project's preferred alignment and outcomes. The presentation and resulting alignment plan was posted on the Parks, Recreation and Neighborhood Services and Public Works Web sites. Progress reports on the master plan were shared with the Bicycle Pedestrian Advisory Committee as part of the Trail Program Updates on November 8, 2004 and April 11, 2005. No outreach has occurred regarding the agreement amendment or appropriation amendment.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, and the Departments of Planning, Building and Code Enforcement, Transportation, Public Works, Airport Department and the Mayor's Budget office.

FISCAL / POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy with the additional project program elements. The Council-approved trail master plan defined an alignment that required construction of the under-crossing project for a continuous trail system.

COST SUMMARY / IMPLICATIONS

1.	AMOUNT OF RECOMMENDATION:	
	Transfer to SCVWD	\$2,375,500
2.	COST OF PROJECT:	
	Consultant Services	\$266,730
	Project Delivery (Staff Time)	65,160
	Construction Cost	\$2,125,980
	Construction Contingency	<u>200,000</u>
	TOTAL PROJECT COSTS	\$2,657,870
	Prior Year Expenditure	\$(174,720)*
	REMAINING PROJECT COSTS	\$2,483,150

*A total of \$174,740 was expended/encumbered in 2005-2006 for Consultant

Services and Project Delivery costs.

3. SOURCE OF FUNDING:
- 380 – Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 3
 - 381 – Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 4
 - 391 – Construction and Conveyance Tax Fund: City-wide Parks Purposes
 - 465 – Construction Excise Tax Fund
 - 527 – Airport Renewal and Replacement Fund
4. FISCAL IMPACT: Upon construction, maintenance of the 800 linear foot under-crossing is estimated at \$2,000 annually. The larger six-mile trail project is anticipated to cost \$72,000 annually. This includes the cost of routine and preventative maintenance and capital (rehabilitation) expenditures. Park patrol costs are estimated at \$13,200 annually for the larger six-mile trail project. Funding for the operating and maintenance costs associated with this project will be included in the 2007-2008 Operating Budget.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Total Appn.	Amount for Fund Transfer	2006-2007 Adopted Capital Budget (Page)	Last Budget Action (Date, Ord. No.)
Remaining Project Cost			\$2,483,150			
Current Available Funding						
380	5175	TRAIL: Airport Parkway Under Crossing	\$973,000	\$930,500	V-377	10-17-06, Ord. No. 27888
391	5175	TRAIL: Airport Parkway Under Crossing	\$303,000	\$188,480		02-13-07, Ord. No. 27973
465	6257	North San Jose Deficiency Plan Improvements*	\$546,000	\$546,000	V-1108	10-17-06, Ord. No. 27888
527	5175	Airport Parkway Trail Undercrossing	\$229,000	\$229,000		2-13-07, Ord. No. 27979
527	4007	Advanced Planning**	\$74,000	\$74,000	V-992	10-17-06, Ord. No. 27888

Recommended Additional Funding***						
381	TBD	TRAIL: Airport Parkway Under Crossing	\$179,000	\$179,000		
527	5175	Airport Parkway Trail Undercrossing	\$179,000	\$179,000		
Total Funding for Project			\$2,483,000	\$2,325,980		

* The Department of Transportation has allocated an additional \$243,000 to their current allocation of \$303,000 from the North San Jose Deficiency Plan Improvements appropriation (appropriation totals \$1,765,000) to be used for the Airport Parkway Under Crossing project for a total contribution to the project in the amount of \$546,000.

** The Airport Department has allocated \$74,000 of the existing \$759,000 budgeted for the Advanced Planning appropriation to be used for the Airport Parkway Under Crossing project.

***Included in this memorandum is a request to appropriate \$179,000 from the Airport Renewal and Replacement Fund Ending Fund Balance (appropriation totals \$1,880,225) and \$179,000 from the Council District 4 Construction and Conveyance Tax Fund Ending Fund Balance (appropriation totals \$2,528,560) to be used for the Airport Parkway Under Crossing project.

CEQA

Mitigated Negative Declaration, File No. PP04-323.

Albert Balagso
ALBERT BALAGSO
for Director of Parks, Recreation
and Neighborhood Services

Larry D. Lisenbee
LARRY D. LISENBEE
Budget Director

For questions, please contact YVES ZSUTTY, TRAIL PROGRAM MANAGER, at 793-5561