



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Albert Balagso  
Larry D. Lisenbee

**SUBJECT:** SEE BELOW

**DATE:** 08-27-07

Approved

Date

9/5/07

**COUNCIL DISTRICT:** 4  
**SNI AREA** N/A

**SUBJECT: ADOPTION OF APPROPRIATION ORDINANCE AMENDMENTS IN THE SUBDIVISION PARK TRUST FUND AND APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE CONSTRUCTION TAX AND PROPERTY CONVEYANCE TAX FUND: PARKS PURPOSES COUNCIL DISTRICT #4 FOR THE TRAIL: PENITENCIA CREEK/VICEROY AVENUE INTERSECTION PROJECT**

## RECOMMENDATION

1. Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
  - a. Establish an appropriation to the Parks, Recreation and Neighborhood Services in the amount of \$85,000 for the TRAIL: Penitencia Creek/Viceroy Avenue Intersection; and
  - b. Decrease the Reserve: Future PDO/PIFO Projects by \$85,000.
  
2. Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4 (Fund 381):
  - a. Increase the Beginning Fund Balance by \$61,000; and
  - b. Increase the TRAIL: Penitencia Creek/Viceroy Ave. Intersection appropriation to the Parks, Recreation and Neighborhood Services Department by \$61,000.

CEQA: PP05-067

## OUTCOME

Approval of appropriation adjustments provides necessary funding for the Director of the Department of Transportation to award a construction contract to construct wheelchair ramps, sidewalk, crosswalk, median island, and curb and gutter resulting in roadway improvements to support trail system continuity near the intersection of Penitencia Creek Road and Viceroy Drive.

## **BACKGROUND**

The Santa Clara County (County) prepared a master plan for Penitencia Creek Park, from Alum Rock Park to Coyote Creek, dated July 18, 1977, which contemplated the joint use of County, Santa Clara Valley Water District (District), and City-owned lands on and adjacent to Upper Penitencia Creek. At the time, the District's Board of Directors and the City Council adopted formal resolutions endorsing the master plan and stating the District and City's intentions to cooperate with the County and any other interested public agencies in carrying out the master plan proposals.

In July 1981, City, District, and County entered into a joint use agreement for the lands of the Upper Penitencia Creek Park Chain. The agreement generally defined the roles of each agency in developing the park chain.

In general, the following roles and responsibilities were defined by the 1981 agreement:

- County was to develop and maintain the built projects.
- District was to maintain the creek, develop ponds and construct flood-control improvements.
- City was to address public safety through the deployment of police and fire personnel.

The 1981 agreement expired and on February 27, 2007, the City Council authorized the City Manager to negotiate and execute a revised agreement. On March 20, 2007, the City executed an agreement with the County of Santa Clara and the Santa Clara Valley Water District for joint use of lands along the Penitencia Creek. The agreement maintained a similar set of roles for each agency, but offered greater specificity for operation and maintenance.

The Penitencia Creek Trail system is discontinuous near the intersection of Penitencia Creek Road and Viceroy Drive. Lack of sidewalk, crosswalks and roadway improvements deter use of the trail by pedestrian and bicyclists and also do not reinforce the presence of the nearby trail system.

## **ANALYSIS**

The cost of developing the project has increased since a cost estimate was prepared to secure initial funding for the project. Two primary factors influenced the revised engineer's cost estimate that suggests the need for increased funding; 1) expanded scope of work to include additional safety enhancements, and 2) evidence of inflated construction bids.

The initial estimate for the project was \$41,000 and only envisioned installation of wheelchair ramps, sidewalk and minor signage and striping. As funding was secured in the City budget, staff determined that the Department of Transportation (DOT) had also secured funding through a Transportation Development Act grant to build similar traffic safety enhancements at the intersection.

Seeing an opportunity to share resources and eliminate duplicate efforts, staff from Parks, Recreation and Neighborhood Services (PRNS) and DOT revisited the projects' scopes. In order

to substantially enhance pedestrian and bicycle safety at the intersection, the project improvements include the following components:

- Curb, gutter and sidewalk to provide a defined pedestrian route.
- Realigned roadway striping to improve driver visibility of the crossing.
- Striped crosswalk to indicate the preferred crossing point.
- Median island to provide refuge to pedestrians when crossing the roadway.
- Wheelchair ramps to facilitate bicycle access and provide access per the Americans with Disability Act.

The additional work items resulted in a revised cost estimate of \$144,562 which was in line with the combined funding sources available to DOT and PRNS.

Over the past several years, the cost to construct public work improvements has increased beyond the rate of inflation. Growing national and worldwide demand for fuel, concrete and steel has raised the cost of these core building supplies and materials. Inflation in the construction sector of the economy has outpaced the core rate of inflation for the past several years. The Department of Public Works has seen a 7% escalation rate during 2006-2007, with 5% projected for the current year. Public Works provided the City Council with an informational memorandum on October 11, 2006 which provides more background and analysis about this matter.

Staff has carefully reviewed recent bids for similar projects and believes that additional funding is needed to award this contract and construct the project. The revised project is estimated to cost \$293,818, however, the combined funding sources allocated to this project from PRNS and DOT total \$208,818, leaving a funding gap of \$85,000. This memorandum includes an appropriation action request to allocate the \$85,000 funding gap from the Park Trust Fund. This additional funding will allow DOT to proceed with the award of the construction contract. Also included in this memorandum is an appropriation action request in the Council District 4 Construction and Conveyance Tax Fund to rebudget \$61,000 in unexpended 2006-2007 funds. It is necessary to rebudget these funds to ensure adequate funding to complete the project.

### **EVALUATION AND FOLLOW-UP**

Funding secured as part of this City Council action will lead to the development of roadway improvements to improve access to the Penitencia Creek Trail. The City has a goal of creating a 100-mile trail network as defined by the Greenprint (adopted by the City Council in September 2000). The Penitencia Creek Trail is one of the 32 systems that make up the network.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council 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 meet any of the listed criterions. However, this memorandum will be posted on the City's Internet website for the September 18, 2007 Council meeting.

Typically a community process occurs when there is flexibility with the design approach. With a trail project, staff can often discuss alternative alignments, aesthetic treatments and furnishings. In this case, the roadway improvements are designed by a traffic engineer who follows accepted design practices. The project is consistent with the 1977 master plan developed by the County of Santa Clara. That planning effort included a community outreach component.

### **COORDINATION**

This memorandum was coordinated with the Department of Transportation; Planning Building and Code Enforcement; and the City Attorney's 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.

### **COST IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION: (Engineer's Estimate) \$278,818
  
2. ESTIMATED COST OF PROJECT:

Project Delivery	\$126,918
Construction Contract	\$144,600
Contingency	\$7,300
<b>TOTAL PROJECT COSTS</b>	<b>\$278,818</b>
Right-Of-Way (ROW) (Easement Donation)	15,000
<b>TOTAL PROJECT COSTS (including ROW)</b>	<b>\$293,818</b>
Estimated Prior Year Expenditures	\$32,294
<b>REMAINING PROJECT COSTS</b>	<b>\$261,524</b>
  
3. SOURCE OF FUNDING:

381 – Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4
375 – Subdivision Park Trust Fund
465 – Construction Excise Tax Fund
  
4. FISCAL IMPACT: Review of this change order determined no significant adverse impact on the General Fund Operating Budget.

To: Honorable Mayor and City Council  
 Subject: Penitencia Creek Trail – Viceroy Drive Intersection Improvements  
 08-27-07  
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**BUDGET REFERENCE**

The table below identifies the fund and appropriations proposed to fund the project as recommended in this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

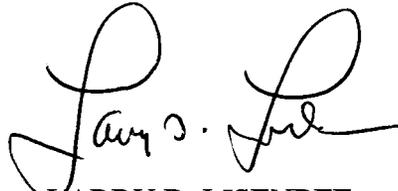
Fund #	Appn #	RC #	Appn. Name	Total Appn.	2007-08 Proposed Budget Page	Last Budget Action (Date, Ord. No.)
<b>Remaining Project Costs</b>				<b>\$261,524</b>		
<b>Current Funding Available</b>						
465	4292	139345	Bicycle and Pedestrian Facilities	\$147,818	V – 856	
<b>Additional Funding Recommended</b>						
375	TBD	TBD	TRAIL: Penitencia Creek/Viceroy Avenue Intersection	\$85,000		
381	5180	140085	TRAIL: Penitencia Creek/Viceroy Ave. Intersection	\$61,000		
<b>Total Project Funding</b>				<b>\$293,818</b>		

\*The Bicycle and Pedestrian Facilities appropriation totals \$750,000, however, only \$147,818 has been allocated for the TRAIL: Penitencia Creek/Viceroy Avenue Intersection project.

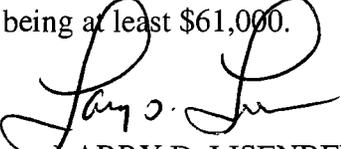
**CEQA**

CEQA: PP05-067

  
 ALBERT BALAGSO  
 Director, Parks, Recreation  
 and Neighborhood Services

  
 LARRY D. LISENBEE  
 Budget Director

I hereby certify that there will be available for appropriation in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4 in Fiscal Year 2007-2008 monies in excess of those heretofore appropriated there from, said excess being at least \$61,000.

  
 LARRY D. LISENBEE  
 Budget Director

For questions please contact Yves Zsutty, Department of Parks, Recreation and Neighborhood Services, at (408) 793-5561.