



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Albert Balagso

SUBJECT: SEE BELOW

DATE: 07-15-08

Approved

Date

7-18-08

COUNCIL DISTRICT: 7, Citywide
SNI AREA: Tully / Senter

SUBJECT: AGREEMENT BETWEEN THE CITY OF SAN JOSE AND THE CALIFORNIA TROLLEY AND RAILROAD CORPORATION (CTRC) FOR THE ELECTRIFICATION, MAINTENANCE AND OPERATION OF TROLLEY TRACKS AT THE SAN JOSE HISTORICAL MUSEUM AND KELLEY PARK.

RECOMMENDATION:

Adoption of a Resolution authorizing the City Manager to negotiate and execute an agreement with CTRC to provide overhead electricity to the tracks and to maintain and operate a section of the Trolley Line located at Kelley Park, known as the Kelley Park Line, for an initial 36 months with the option, conditioned upon mutual agreement, to extend the agreement an additional 24 months.

CEQA: PP08-131 (Exempt).

OUTCOME:

Approval of the above recommendation will allow for the operation of historic trolleys within Kelley Park in conformance with the Park's current master plan at no cost to the City of San José.

BACKGROUND:

In the mid 1990's the San Jose Trolley Corporation (SJTC) generated donations, materials, supplies and volunteer labor for the purpose of constructing a trolley barn, test track, and other facilities at the

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History Park located within Kelley Park. SJTC donated the trolley barn, test track, and other facilities to the City. The Trolley Barn is now used for the storage, protection and restoration of vintage trolleys.

In 1995, SJTC merged with the Santa Clara Valley Railroad Restoration Corporation to form the California Trolley and Railroad Corporation (CTRC). In approximately 1999, CTRC expanded the track previously laid to include a line running north from Phelan Avenue, approximately 0.4 miles to the main entry to Kelley Park, now referred to as the "Kelley Park Line." This track (line) was never electrified or actively used.

The City and CTRC are parties to an agreement dated December 12, 1995, which covers the operation and maintenance of the existing electrified train tracks located within History Park and which expires on December 12, 2015.

CTRC has actively worked within the corporate community to acquire commitments of donated labor from entities with expertise in the areas needed for this project. CTRC has acquired a grant of \$13,000 from the Downtown Rotary Club of San José and has another grant application pending from the County of Santa Clara Historic Heritage Commission to CTRC, in the amount of \$10,000 to support the acquisition of materials needed for this planned work.

ANALYSIS:

CTRC wishes to establish an agreement with the City for installation of improvements related to the electrification of the existing tracks known as the Kelley Park Line. This agreement will also allow CTRC to provide for maintenance and operations of historic trolleys upon the improved tracks. CTRC intends to complete the design, construction, and installation of the electrification improvements and to provide for the maintenance and future trolley operations through the use of donated funds and services.

The proposed agreement term is for 36 months, with the option, if agreed upon by both parties, to extend an additional 24 months. In the event the CTRC fails to perform any material term, or condition to the agreement, the City may terminate the agreement by providing 5 days written notice to CTRC. Upon completion and approval, the CTRC will donate and transfer title to the improvements to the City of San José, at no cost. The proposed improvements are consistent with the approved 1994 master plan for Kelley Park.

CTRC agrees to pay for all project costs to include planning, design, engineering, construction, and materials with the exception of minor Department of Public Works costs as outlined below. CTRC shall ensure that both construction work and the operation and maintenance work shall be performed by licensed and qualified contractors or by qualified volunteers under the direction of licensed, qualified contractors. The scope of the work includes planning, design, specialized inspection,

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construction, and supervision of construction. CTRC agrees to reimburse the City for the cost and expense of all repairs for any damage to existing grass, trees, or irrigation.

Under the proposed agreement, CTRC assumes complete responsibility for the development of plans and specifications in support of the improvements. Prior to the start of work, CTRC shall submit two sets of project plans as well as a work schedule to the Director of Public Works for review and approval. Upon approval, the Director of Public Works, or her designee, shall issue a notice to proceed to CTRC. All work shall be completed within 6 months from the date that the notice to proceed is approved. Per agreement, the Department of Public Works shall be responsible for the review and approval of plans and general inspection services up to a maximum of \$22,000. CTRC is responsible for any Department of Public Works costs in excess of \$22,000. Specialized construction inspection services will be conducted by a qualified, third party, identified and agreed to by both CTRC and Public Works. All inspection records shall be maintained and made available to the City upon request.

CTRC shall be responsible to comply with prevailing wage requirements, the provision of insurance as requested by the City's Risk Manager and for the provision of a Payment Bond.

CTRC is solely responsible for ensuring that any related improvements including the trolley, are maintained in safe working order and in compliance with all applicable laws, rules, and regulations. Upon completion, an operations and maintenance plan shall include how and by whom the trolleys are operated. This plan shall include proposed hours of operation, proposed fees, preventative maintenance plans, and training requirements of operators, including safety protocol. Training records shall be kept a minimum of 5 years.

EVALUATION AND FOLLOW-UP:

The proposed agreement requires PRNS and CTRC to meet on an annual basis to discuss the maintenance and operation of the Kelley Park Line.

POLICY ALTERNATIVES:

Alternative #1: Maintain the status quo (no improvement)

Pros: No disruption due to construction activities. No cost to the City.

Cons: A component of the master plan is not achieved. A public – private partnership opportunity is lost.

Reason for not recommending: Both disruption and cost are minimal when compared to the potential gains from the improvements.

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Alternative#2: Make improvements through the Department of Public Works capital development process of a bid and award to a contractor for construction of the improvements.

Pros: Direct control of improvement project.

Cons: Higher cost to City. A public – private partnership opportunity is lost.

Reason for not recommending: The alternative fails to creatively leverage City resources by not actively working with a non-profit project sponsor.

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 action does not meet any of the criteria listed above. No public outreach was necessary as this in an action consistent with an approved master plan. This memorandum will be posted on the City's website for the August 5, 2008 City Council agenda.

COORDINATION:

The development of this agreement has been coordinated with the Attorney's Office, Risk Management, Planning, Building and Code Enforcement, Department of Public Works and the City Manager's Budget Office.

COST IMPLICATIONS:

The costs of this project to the City are limited to a maximum of \$22,000 in support of the Department of Public Works plan review and inspection services. CTRC is responsible for all other costs, including operating and maintenance costs for an initial 36 months. Upon mutual agreement by the City and CTRC, the operating and maintenance agreement can be extended for another 24 months at which time CTRC will continue to be responsible for the operating and maintenance costs.

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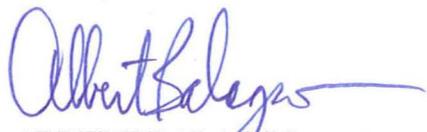
BUDGET REFERENCE

The table below identifies the funds and appropriations proposed to fund the agreement recommended as part of this memorandum. The City is responsible to fund Public Works costs up to a maximum of \$22,000, with CTRC taking responsibility for any Department of Public Works costs in exceeding that amount.

Fund #	Appn #	Appn Name	Total Appn.	2008-2009 Proposed Capital Budget Page	Last Budget Action (Date, Ord. No.)
Current Funding Available					
391	5994	Volunteer Project Support	\$40,000	V-482	
Total Current Funding Available			\$40,000		

CEQA

CEQA: PP08-131 (Exempt).


ALBERT BALAGSO
Director of Parks, Recreation
and Neighborhood Services

For questions please contact Brian Hartsell, Park Manager at 277-2731.

