



# Memorandum

**TO:** HONORABLE MAYOR, CITY  
COUNCIL AND REDEVELOPMENT  
AGENCY BOARD

**FROM:** Debra Figone  
Harry S. Mavrogenes

**SUBJECT:** EDENVALE COMMUNITY  
CENTER CONSTRUCTION

**DATE:** September 8, 2008

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**COUNCIL DISTRICT:** 2  
**SNI AREA:** Edenvale/Great Oaks

## RECOMMENDATIONS

It is recommended that the City Council and Redevelopment Agency Board take the following actions related to the proposed Edenvale Community Center:

- (a) Conduct a public hearing as required by Health and Safety Code Section 33679 and adoption of a resolution by the City Council making certain determinations required by Health and Safety Code Section 33445 for Agency funding of the Edenvale Community Center ("Center").
- (b) Approval of a Cooperation Agreement by the City Council and Redevelopment Agency Board providing for the Agency's construction of the Center, the City's occupation and maintenance of the Center, for the transfer of City funds in the amount of \$5,307,000 to Agency for construction of the Center, and the transfer of all the Agency's rights, title and interest in the Center following its completion.
- (c) Adoption of a resolution by the Redevelopment Agency Board: 1) approving the proposed increase of \$5,307,000 to the FY 2008-09 Adopted Capital Budget, Miscellaneous Revenue line item from City of San Jose; 2) approving an adjustment to the FY 2008-09 Adopted Capital Budget adding \$9,628,153 to the Edenvale/Great Oaks – Edenvale Community Center project line in the Strong Neighborhood Initiative (SNI) Redevelopment Area; and 3) amending the FY 2008-09 Agency Appropriations Resolution, as detailed in Attachment A.
- (d) Adoption of the following 2008-2009 Appropriation Ordinance amendments in the General Fund (Fund 001):
  - (1) Establish a Transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,435,000; and,
  - (2) Decrease in the Neighborhoods Capital Improvements Fund Earmarked Reserve by \$1,435,000.

**Edenvale Community Center Construction**

- (e) Adoption of the following 2008-2009 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund; Parks Purposes Council District #2 (Fund 378):
  - (1) Establish a Transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,517,000;
  - (2) Establish an Edenvale Community Center Fixtures, Furniture and Equipment appropriation to the Parks, Recreation, and neighborhood Services Department in the amount of \$600,000;
  - (3) Increase the Council District 2 Public Art appropriation by \$59,000;
  - (4) Decrease the Reserve: District 2 Community Center by \$2,117,000; and
  - (5) Decrease the Ending Fund Balance by \$59,000.
  
- (f) Adoption of the following 2008-2009 Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):
  - (1) Establish a Transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,065,000;
  - (2) Decrease the Reserve: Calpine Open Space by \$565,000; and
  - (3) Decrease the Reserve: District 2 Community Center by \$500,000.
  
- (g) Adoption of the following 2008-2009 Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
  - (1) Establish a Transfer to the Redevelopment Agency for the Edenvale Community Center in the amount of \$1,290,000; and
  - (2) Decrease the Reserve: District 2 Community Center by \$1,290,000.
  
- (h) Award of a construction contract by the Redevelopment Agency Board to Ralph Larsen and Sons Inc., the lowest responsive bidder, in the amount of \$12,594,000 for the construction of the Edenvale Community Center, and authorization of a construction contingency of \$906,000, for a total contract amount of \$13,500,000.
  
- (i) Approval by the Redevelopment Agency Board of the second amendment to the agreement with Carrier Johnson Architects, in the amount of \$432,250 for a total contract amount not to exceed \$1,747,490, amending the scope of services to include contract administration and project close out, modifying the Schedule of Performance and extending the term of the agreement to June 30, 2010.
  
- (j) Approval by the Redevelopment Agency Board of the second amendment to the agreement with Gilbane Building Company, in the amount of \$860,000 for a total contract amount not to exceed \$1,260,000, amending the scope of services to include construction administration and project close out, modifying the Schedule of Performance and extending the terms of the agreement to June 30, 2010.

**OUTCOME**

Approval of the recommended actions will enable the Redevelopment Agency to proceed with the construction of this important SNI project.

**BACKGROUND**

Development of a community center is the number three priority in the Edenvale/Great Oaks Neighborhood. In 2006, Caroline Davis Intermediate School was identified as the logical site for this project and negotiations with the Oak Grove School District began. Within the school campus, the approximately two-acre site located at the corner of Edenvue Drive and Branham Lane East provides an ideal location for the proposed project. The architectural firm of Carrier Johnson was selected through a Request for Proposals process, as was the construction manager, Gilbane Building Company.

The proposed Center will be approximately 20,204 square feet with a gymnasium, multi-purpose room, computer lab, combined dance/fitness room that can serve as a stage, two early childhood recreation classrooms, open space for early childhood recreation, administrative and common areas. City, Agency and School District staffs have negotiated a joint agreement for the design, construction and operation of the Edenvale Community Center entitled "Agreement for the lease, development, operation and joint use of a community center at the Caroline Davis Intermediate School," which defines each entity's obligations for the design, construction, and operation and maintenance of the Center. That agreement is the subject of companion action also being heard on September 23, 2008.

The next steps in the project development process require that the Council conduct a public hearing and make certain determinations required under Redevelopment Law, that the City Council and Agency Board approve the Edenvale Community Center Cooperation Agreement, that the Agency Board approve an adjustment to the FY 2008-09 Adopted Capital Budget, the City Council approve the transfer of City funds to the Agency, the Agency Board award a contract to the lowest responsive bidder and authorize a construction contingency, and that the Agency Board approve second amendments to the architectural and construction management agreements.

**ANALYSIS**

**PUBLIC IMPROVEMENT DETERMINATIONS:**

The Edenvale Community Center will be city-owned on property within the SNI Redevelopment Project Area. Health and Safety Code Section 33445 requires that the City Council make certain determinations before tax increment funds can be used to construct a publicly-owned building. Following are the required determinations, and the facts supporting each one:

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1. That the building or facility is of benefit to the redevelopment project area or the immediate neighborhood in which the project area is located.

The Edenvale Community Center building is located in the SNI Redevelopment Project Area. The completion and operation of the Center will provide the local community with a place for sports, arts, learning, cultural and enrichment activities, gathering and socializing, and services that support and assist in the advancement and improvement of life skills. In addition, the facility will enhance the Caroline Davis Intermediate School's ability to provide sports and physical education activities during school hours and provide a central location of consolidating both existing and new youth programs and services. Through the foregoing described activities, the Center will benefit and assist the Project Area by serving the local youth population and reducing incidents of juvenile delinquency and loitering in the Project Area.

2. That no other reasonable means of financing the facility are available to the community.

The City has limited funds budgeted other otherwise identified for such purposes. Absent the Agency's assistance, neither the City nor School District would be able to construct the Project. The School District has made a companion findings in this regard, determining that it has no funds available for such purposes, a copy of which findings is attached to this memorandum.

3. That the funds used to construct the Center will assist in the elimination of blighting conditions inside the project area.

The Center will provide educational and recreational opportunities for neighborhood youth, which in turn is expected to reduce juvenile delinquency and loitering in and about businesses within the Project Area, thereby reducing the blighting condition of crime and addressing the blighting conditions of impaired investments by attracting additional private investment and encouraging the existing businesses to remain in the area.

4. That the expenditure is consistent with the implementation plan for the project area.

The Agency Board's Five Year SNI Implementation Plan FY 07-12 for the Strong Neighborhoods Initiative, includes a goal for the neighborhood investment districts of providing for public facilities that support or enhance residential environments through the construction of new community centers, and by creating programs to address the needs of the neighborhoods.

An objective of the Center would be to endeavor to partner with various public and private agencies to meet the diverse needs of the community which may include programming relating to special education, special counseling, cultural and linguistic needs, unique programming for at-risk youth and other social services based on community needs. Overall, through providing programs of this type, the Center will fulfill a redevelopment purpose of providing valuable education and recreational resources for the community.

**Edenvale Community Center Construction**

COOPERATION AGREEMENT:

The Cooperation Agreement provides that the Agency shall be responsible, and contract, for the design and construction of the Center in consultation with the City; the City will transfer to the Agency the sum of \$5,307,000 to be applied toward the costs of such design and construction, with the remainder of design and construction costs to be borne by the Agency. Should the School District exercise its right to terminate the joint use agreement, the Cooperation Agreement determines how the City and Agency would share in any applicable reimbursement of funds that may be received from the School District.

Under the Cooperation Agreement, the Agency will transfer the Center to the City upon completion of construction and the occurrence of other completion-related events. Following the transfer of the Center to the City, the Agency shall be required to indemnify the City for costs of remedying design/construction defects not otherwise covered by warranty (for a period of two years), as well as third party claims arising out of the design or construction of the Center.

CITY AND AGENCY BUDGET ACTIONS:

The final budget requirement (design, construction & furniture fixtures and equipment) for the Center is projected to be \$18,500,000. Of this amount, it is proposed that \$5,907,000 would be contributed by the City, and the remainder, \$12,600,000, would be contributed by the Redevelopment Agency. The average interest rate on bond proceeds used by the Redevelopment Agency to fund its contribution is 5% per annum.

The funding noted below has been appropriated to the project by the City Council and Redevelopment Agency Board through prior budgeting actions/expenditures:

CITY:

- \$2,117,000 Council District 2 Construction and Conveyance Tax Fund (currently budgeted as a reserve);
  - \$1,290,000 Park Trust Fund (currently budgeted as a reserve);
  - \$1,065,000 Calpine funds (currently budgeted in reserves in the Parks City-Wide Construction and Conveyance Tax Fund);
  - \$4,472,000\* Total City appropriated funding
- \* To be appropriated by the Agency as part of budget action detailed on Attachment A.

AGENCY:

- \$ 374,795 Agency Expenditures in FY 2006-07
- \$1,638,238 Agency Expenditures (including encumbrances) in FY 2007-08
- \$6,258,814 Agency Funding in FY 2008-09 as Adopted on June 26, 2008
- \$8,271,847 Total Agency appropriated funding/expenditures
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- \$12,743,847 Total City/Agency appropriated funding/expenditures

**Edenvale Community Center Construction**

Taking into consideration prior budget actions/expenditures, it is anticipated that \$5.8 million (\$18.5 million project budget less \$12.7 million amount already budgeted and/or expended) in additional funding will be required to complete the project budget; \$1,435,000 in funding from the City and \$4,321,153 in Agency funding. The proposed adjustments would be as follows:

City Budget Actions

- \$5,307,000 total transfer to the Redevelopment Agency for the Edenvale Community Center project line in the Strong Neighborhood Initiative Redevelopment Area within five days of the award of the construction contract.
  - \$1,435,000 from City “fronting” monies from the General Fund Neighborhood Capital Improvements Fund Earmarked Reserve to be paid back through future receipts of funds payable to the City pursuant to the cooperation agreement between the City and Calpine/Bechtel related to the Metcalf Energy Center. This funding is not needed during the payback period due to the timing of the Neighborhood Capital Improvement projects, and it is not anticipated that this transfer will delay any of the current project schedules. Anticipated future receipts from Calpine are expected to occur in December 2009 (\$500,000) and December 2010 (\$1.0 million) from which the \$1,435,000 from the General Fund Earmarked Reserve would be reimbursed. No repayment of interest is required as the funds advanced are from the General Fund.
  - \$3,872,000 from City funding currently allocated as reserves (as detailed above) in the Park Trust Fund, Council District 2 Construction and Conveyance Tax Fund, and Parks City-Wide Construction and Conveyance Tax Fund.
- Establish an Edenvale Community Center Fixtures, Furniture and Equipment Fund in the amount of \$600,000 currently allocated as a reserve in the Council District 2 Construction and Conveyance Tax Fund. The management of the FF&E for the Center will be overseen and managed by City staff.
- \$59,000 for Public Art (1% of the City contribution) from the Council District 2 Construction and Conveyance Tax Fund Ending Fund Balance.

Agency Budget Actions

- Approve the increase of \$9,628,153 (\$4,321,153 in Agency funding and City transfers of \$5,307,000 as detailed above) in addition to the amount previously Adopted by the Agency Board (\$6,258,814) on June 26, 2008, as part of the FY 2008-09 Capital Budget, will provide total project funding of \$15,886,967 in the current fiscal year.

**CONTRACT AWARD:**

The Division of the State Architect approved the project plans on June 18, 2008, enabling the Agency to issue the call for bids in early July 2008. Bids were opened on August 15, 2008, and seven bids were received from the following firms:

<u>Contractor</u>	<u>Base Bid Amount</u>
Gonsalves & Stronck	\$12,207,000
Ralph Larsen & Sons	\$12,594,000
SJ Amoroso	\$12,957,000
West Bay Builders	\$12,985,000
Bogard Construction	\$13,708,000
Roebbelen	\$14,437,000
Barry Swenson Builders	\$17,093,386

Gonsalves & Stronck was determined to be the apparent low bidder. However it was ascertained the plumbing subcontractor designated by Gonsalves & Stronck did not possess the LEED experience required as outlined in the bid documents, thereby rendering Gonsalves & Stronck's bid non-responsive. Therefore, Agency staff recommends that the contract for construction of the Center be awarded to the lowest responsive and responsible bidder, Ralph Larsen and Sons, Inc. in the amount of \$12,594,000. The engineer's estimate for this project was \$14 million. The \$12,594,000 bid submitted by Ralph Larsen and Sons Inc. is 9% lower than the engineer's estimate, which is attributed to the competitive bidding climate and overall market conditions. Agency staff recommends a construction contingency of \$906,000 be established for the Edenvale community Center Project for a total contract amount of \$13,500,000.

Upon Agency Board approval of the contract award and receipt of the contractor's bonds and insurance, a Notice to Proceed is anticipated to be issued early October 2008, with a project completion anticipated for Spring 2010.

**CONSULTANT AGREEMENTS:**

Both Carrier Johnson Architects and Gilbane Building Company have worked closely with the project staff, including Parks, Recreation and Neighborhood Services and the Oak Grove School District to ensure the quality of the project and to develop a project that best meets the needs of the community and the school. Both firms are integral in the final delivery steps of this project and are critical to the success of the building and the Agency's pursuit of certification at the LEED Gold level.

Consequently, it is recommended that Carrier Johnson's contract be amended to: increase the compensation by \$432,250 for a total contract amount not to exceed \$1,747,490; include contract administration and project close-out in its scope of services; modify the Schedule of Performance; and extend the term of the agreement from August 30, 2009, to June 30, 2010. In addition, it is recommended that the Gilbane Building Company contract be amended to: increase the compensation by \$860,000 for a total contract amount not to exceed \$1,260,000; include construction administration and project close-out in its scope of services; modify the Schedule of Performance; and extend the term of the agreement from August 30, 2008 to June 30, 2010.

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

Regular reports will be provided to the Agency Board through the monthly Projects Under Construction report and the quarterly Capital Improvement Project report.

### **PUBLIC OUTREACH/INTEREST**

Meetings with the Neighborhood Advisory Committee, the Parks Commission, and the Oak Grove School Board have been held. The NAC has been advised of this recommended action. The proposed actions meet Criterion 1 for added outreach efforts. This staff report was distributed to the City Council and Agency Board and posted on the City's website 14 days prior to the scheduled Council meeting date. It was also made available for public review in the City Clerk's Office.

- ✓ **Criterion 1:** Requires Council or Board action on the use of public funds equal to \$1 million or greater.
- 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.
- Criterion 3:** Consideration of proposed changes to service delivery, programs, or staffing that may have impacts to community services and have been identified by staff, the Board or Council, or a community group that requires special outreach.

### **COORDINATION**

This report has been coordinated with Parks, Recreation and Neighborhood Services, and with the Agency's General Counsel.

### **FISCAL IMPACT**

The proposed adjustments to the Agency's FY 2008-09 Adopted Capital Budget, (1) adding \$5,307,000 to the Miscellaneous Revenue budget line, reflecting funding contributions for the project from the City of San Jose; and (2) adding \$9,628,153 to the Edenvale/Great Oaks – Edenvale Community Center project line reflecting the City's funding of \$5,307,000 and the Agency's additional funding of \$4,321,153; will result in a net reduction of \$4,321,153 to the Agency's Capital Reserve as detailed in Attachment A.

Additional fiscal impacts of this project to the City's General Fund are discussed in the associated joint use agreement approval memo for this project. This memorandum includes City funding totaling \$5,907,000 for the Edenvale Community Center project. Of this allocation, \$4,472,000 is currently allocated as reserves in the Council District 2 Construction and Conveyance Tax Fund, Park Trust Fund, and City-Wide Construction and Conveyance Tax Fund. In addition to these reserves, the City is also "fronting" \$1,435,000 of City monies from the General Fund Neighborhood Capital Improvements Fund Earmarked Reserve, which will be

MAYOR, CITY COUNCIL, AGENCY BOARD

9-8-08

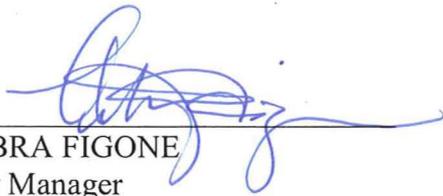
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paid back through future receipts of funds payable to the City pursuant to the cooperation agreement between the City and Calpine/Bechtel related to the Metcalf Energy Center. This includes \$600,000 for the FF&E for the project. In addition, City funding of \$59,000 is included in the Council District 2 Construction and Conveyance Tax Fund for public art.

**CEQA**

Mitigated Negative Declaration, File No. PP08-003.



DEBRA FIGONE  
City Manager



HARRY S. MAVROGENES  
Executive Director

Attachments

For questions on this memorandum, please contact MATT CANO, DIVISION MANAGER,  
PARKS, RECREATION & NEIGHBORHOOD SERVICES at 535-3580

THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE  
 PROPOSED ADJUSTMENTS TO THE FY 2008-2009 ADOPTED BUDGET

Agency's Business Unit Number	Project	Budget Year	Adopted Budget FY 2008-09	Net Change	Proposed Revised Budget FY 2008-09
<b><u>SOURCE OF FUNDS</u></b>					
	Other/Miscellaneous Revenue	FY 08-09	18,545,894	+5,307,000	23,852,894
<b><u>USE OF FUNDS</u></b>					
Strong Neighborhood Initiative (Fund 056)					
0560801 003	Edenvale/Great Oaks Edenvale Community Center	FY 08-09	6,258,814	+9,628,153	15,886,967 -A)
CAPITAL RESERVE				-4,321,153	

(A- Excludes \$2,013, 033 expended and or encumbered in prior years, primarily soft costs associated with the project.)

**RESOLUTION NO. 890-07/08**

**RESOLUTION OF THE BOARD OF EDUCATION OF THE OAK GROVE SCHOOL DISTRICT EVIDENCING DETERMINATIONS PURSUANT TO THE HEALTH AND SAFETY CODE REGARDING IMPROVEMENTS AT CAROLINE DAVIS INTERMEDIATE SCHOOL**

**WHEREAS**, Section 33445 of the California Health and Safety Code authorizes the Redevelopment Agency of the City of San Jose ("Agency") to pay all or a part of the cost of construction of public improvements when there are no other reasonable means of financing the improvements available to the community; and

**WHEREAS**, Caroline Davis Intermediate ("School"), located at 5035 Edenvue Drive in San Jose, California, is located in a redevelopment project area ("Project Area"); and

**WHEREAS**, the District, the City of San Jose, and the Redevelopment Agency of the City of San Jose plan to commence construction of improvements to the Edenvue Community Center on the corner of the School property, located along East Branham and Edenvue Drive, which the District will use for physical education, recreation, and sports activities (the "Improvements"); and

**WHEREAS**, no other reasonable means of financing the Improvements are available to the District as the District does not have funds to pay for the Project; and

**WHEREAS**, the Improvements will provide the public with a location for a year-round community center, including a gymnasium, for community recreation purposes and programs; and

**WHEREAS**, the Agency and City is funding the cost of these Improvements for the benefit of the community, pursuant to the terms and conditions of the "Agreement Between the City of San Jose, the Redevelopment Agency of the City of San Jose and Oak Grove School District for the Lease, Development, Operation and Joint Use of a Community Center at the Caroline Davis Intermediate School" ("Agreement") between the Agency, City and District.

**NOW, THEREFORE**, the Board of Education does hereby resolve as follows:

1. The Board finds that the foregoing recitals are true and correct; and
2. The Board finds and determines that no other reasonable means of financing the Improvements are available to the District, and the District does not have sufficient funds to pay for the Project.

Resolution No. 890-07/08

PASSED, ADOPTED, AND APPROVED by the Board of Education of the Oak Grove School District this 3rd day of July, 2008, by the following votes:

AYES: Members Cook, Nishihara, Adams and Hawkins

NOES: None

ABSTENTIONS: None

ABSENT: Member Lemke

  
\_\_\_\_\_  
President, Board of Trustees

ATTEST:

  
\_\_\_\_\_  
Board Secretary