



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: James R. Helmer

**SUBJECT: ROUTE 85/COTTLE ROAD
INTERCHANGE IMPROVEMENT**

DATE: 08-24-09

Approved

Date

8/28/09

COUNCIL DISTRICT: 2
SNI AREA: NA

RECOMMENDATION

Approve the Cooperative Agreement with Caltrans for the construction of Route 85/Cottle Road interchange improvement project at no cost to the City.

OUTCOME

The recommended action facilitates implementation of the Route 85/Cottle Road interchange improvement project ("Project") consistent with the adopted development plan for the Hitachi Global Storage Technologies, Inc.'s (Hitachi) site in the Edenvale industrial area. All costs for the Project are funded by the Hitachi development.

The Project supports City policy goals related to economic development, "smart growth", and safe and efficient transportation services.

BACKGROUND

In June 2005, the City Council approved Hitachi's planned development zoning application. As a result, the 322-acre property was rezoned from industrial to mixed industrial, residential and commercial use. This property was formerly known as the IBM campus and is located in the Edenvale industrial area. For reference, a plan showing the Hitachi campus and the proposed Project is attached as Exhibit A.

Subsequently, in August 2005, Ordinance No. 27492 was adopted by the City Council approving a development agreement between the City and Hitachi entitled "Development Agreement by and among the City of San Jose, the Redevelopment Agency of the City of San Jose and Hitachi Global Storage Technologies, Inc. relative to the development of real property in San Jose" ("Development Agreement"). The Development Agreement identified a number of regional transportation improvements to be constructed by Hitachi as a condition of development. One of those improvements, and the subject of this memorandum and Agreement, is the Project. Other

improvements discussed in the Development Agreement include the modification of the Route 85/Great Oaks off ramp and the construction of a pedestrian overcrossing from the Hitachi site to the Blossom Hill Caltrain Station.

On November 16, 2007 the City entered into a subsequent agreement with Hitachi entitled "Master Cooperation Agreement by and between the City of San Jose and Hitachi Global Storage Technologies, Inc." ("Master Agreement"). The Master Agreement further defined the roles and responsibilities between the City and Hitachi for the construction of the regional transportation improvements. Specifically, the City agreed to enter into a cooperative agreement with Caltrans as the sponsor of the Project on behalf of Hitachi, and that Hitachi would be responsible for the completion of the Project and all associated costs.

Improvements associated with the Project are intended to improve traffic flow and operations at this interchange and are highlighted in the attached Exhibit A. Improvements include:

- Construction of a new loop on-ramp from northbound Cottle Road to northbound Route 85,
- Realignment of the northbound off-ramp, and
- Removal of the existing northbound loop off-ramp to southbound Cottle Road.

The cost of the Project is estimated to be \$3.5 million and will be funded entirely by Hitachi. Staff from the Department of Transportation have been coordinating the review of plans, specifications and estimates with Caltrans and internally within the City. The Project plans are currently at 95% completion.

ANALYSIS

As a standard practice, Caltrans does not enter into agreements with private parties for the construction of improvements to the State highway system. Instead, Caltrans has relied on the agency requiring the improvement to enter into a cooperative agreement as the "sponsor" for the improvement as a means to ensure that privately funded projects are completed. In this context, the Project was required by the City as a condition of development.

As the sponsor, the City accepts the obligation to secure the financial resources to fully fund the project. The acceptance of this obligation is through the execution of the recommended Agreement, which is a standardized cooperative agreement that Caltrans uses for all improvements to State facilities constructed by others. Although the Agreement provides for the execution and completion of the work by third parties, the City is nevertheless responsible for ensuring the funding and completion of the Project.

The City's financial obligation to complete the Project is secured through the Master Agreement with Hitachi. As previously discussed, Hitachi has agreed to assume all of the City's obligations to Caltrans for the completion of the Project as identified in the Agreement. This includes the preparation of all studies, environmental clearances and design as early elements of the Project development. Subsequent elements include contractor selection, construction, right of way documentation and other Project close-out activities. As the Project moves into the construction

phase, Hitachi will be responsible for ensuring the posting of payment and performance bonds and liability insurance in accordance with Caltrans specifications.

Hitachi will also be responsible for any additional funds beyond those initially considered to complete the Project. Examples of items that may be considered as needing additional funding include unanticipated work items, remediation of hazardous materials and construction claims. There are no known hazardous materials on the site and there are no environmental impacts associated with the project. As such, the risk of encountering any unanticipated work items associated with the environmental setting of the project is minimal.

The City has no operational or maintenance costs associated with the current interchange and will not incur any additional costs following completion of the project.

Approval of the cooperative agreement with Caltrans will fulfill City's obligation as prescribed in the Master Agreement with Hitachi.

POLICY ALTERNATIVES

Not applicable.

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 agreement does not meet any of the minimum requirements as defined by Public Outreach criteria; however, this memorandum will be posted on the City's website as part of the Council Agenda outreach process.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, the Department of Public Works, the Department of Planning, Building and Code Enforcement, and the City Manager's Budget Office.

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FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy to explore alternative service delivery mechanisms through public-private partnerships and working with other jurisdictions to ensure no service overlap, reduce and/or share costs, and use our resources more efficiently and effectively.

COST SUMMARY/IMPLICATIONS

This project is estimated to cost \$3.5 million and will be entirely funded by Hitachi in accordance with the Master Agreement. As a result, the City has no financial obligation to this project.

BUDGET REFERENCE

Not applicable.

CEQA

Resolution No. 72772

/s/

JAMES R. HELMER
Director of Transportation

For questions please contact Ray Salvano, Regional Projects Division Manager, at 975-3706.

Attachment

Exhibit A Vicinity Map

