

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Hans F. Larsen

**SUBJECT: BLOSSOM HILL PEDESTRIAN
OVERCROSSING AGREEMENTS**

DATE: 03-01-10

Approved 

Date 3/10/10

COUNCIL DISTRICT: 2

RECOMMENDATION

1. Approval of a Cooperative Agreement between the City of San José and Santa Clara Valley Transportation Authority (VTA), to define VTA's responsibility for the delivery of the Blossom Hill Pedestrian Overcrossing Bridge and City's associated operation and maintenance responsibility.
2. Approval of a New Pedestrian Crossing Developer Agreement between the City of San José, VTA, and Union Pacific Railroad (UPRR), for the maintenance and use of the pedestrian overcrossing by the City over UPRR's rail corridor.
3. Adopt a resolution authorizing the City Manager to:
 - a. Negotiate and execute an agreement between the City of San José and VTA for the transfer of ownership and maintenance of the pedestrian overcrossing from VTA to the City of San José upon completion of the Blossom Hill Pedestrian Overcrossing project.
 - b. Negotiate and execute an agreement between the City of San José and State of California for the maintenance of the Blossom Hill Pedestrian Overcrossing that crosses State property.

OUTCOME

Approval of the recommended actions will facilitate VTA's start of the construction of the Blossom Hill Pedestrian Overcrossing Project. The completed project will improve safety and accessibility for pedestrians and bicyclists in the Blossom Hill/Monterey Highway area.

BACKGROUND

The Blossom Hill Pedestrian Overcrossing Project, sponsored by the City of San José and VTA, is a safety enhancement project that proposes to construct a pedestrian and bicycle grade separated crossing over UPRR tracks, Monterey Road (State Route 82), and Endicott Boulevard near the intersection of Blossom Hill Road and Monterey Road (see Attachment A). VTA is the lead agency for the construction of the overcrossing.

This area of San José is surrounded by residential, commercial retail developments, and a neighborhood school on either side of State Route 82 and the UPRR corridor. Growth in this area has resulted in an increase in pedestrian and bicycle traffic over the years. There are currently at-grade crossings at other locations that facilitate pedestrian and bicyclist crossing over the UPRR corridor and signalized intersections to facilitate crossing over State Route 82. However, the nearest legal at-grade crossing is approximately 0.5 miles north of this location at Chynoweth Avenue. There have been a number of pedestrian fatality incidents over the years as a result of illegal crossings of the railroad tracks. In 2005 there were two accidents; one resulted in an injury and the other resulted in the death of a child.

City staff has worked with VTA to complete the design and identify construction funding for the pedestrian overcrossing project. Portions of the intersection of Blossom Hill Road, Monterey Highway and the railroad tracks are under the separate jurisdiction of the City of San José, State of California (Caltrans) and UPRR as depicted in Attachment A.

On March 20, 2006, a federal earmark of \$2 million was designated for the Monterey/Blossom Hill Pedestrian Access Improvement Project. Also, approximately \$1 million was funded through the Measure A Transit Improvement Program, and \$6.8 million was funded through the 2006 State Proposition 1B Infrastructure Bond. In addition, VTA and City executed a cooperative agreement in February 2007 by which City contributed \$250,000 to be used by VTA as a local match for the \$2 million federal grant. The total project cost is approximately \$10 million.

The pedestrian overcrossing project was identified as a priority for regional transportation funding in the VTA's transportation master plan known as Valley Transportation Plan (VTP) 2030. This project is also included in the list of Caltrain Safety Upgrades – Safety Improvement projects approved by its Board of Directors on January 3, 2008.

ANALYSIS

Under the existing Cooperative Agreement between City and VTA, VTA is responsible for the development, environmental clearance, design, and construction of the pedestrian overcrossing. The project is scheduled to go into construction in September 2010 and to be completed in late 2011. During this time, VTA is acting as owner of the project, anticipating that full ownership will be transferred to the City upon completion of the pedestrian overcrossing and the fulfillment

of State of California grant requirements. In order to complete the construction of the overcrossing and transfer ownership and maintenance responsibilities to the City, the following four agreements will be required:

1. *An agreement between the City of San José and VTA, for the final design, construction, transfer of ownership, operation and maintenance of the pedestrian overcrossing structure.* VTA will be responsible for all design, public bidding, construction, and general administration of the project. VTA has secured funding for the project from a grant program administered by the California Department of Transportation (DOT). Under the terms of the grant program, VTA can transfer ownership of the pedestrian overcrossing only after the final close-out of the project and with the State approval. Thus, a transfer of ownership agreement (see below) will need to be executed between the City and VTA to transfer full ownership of the bridge to the City after the completion of the project. However, City will be responsible for operations, maintenance, and repairs of the bridge immediately upon completion of construction.
2. *An agreement between the City of San José, VTA, and UPRR for the aerial rights for the construction, maintenance and use of the pedestrian overcrossing over UPRR's rail corridor.* Under this proposed agreement, UPRR will grant VTA the right-of-entry needed for construction of the pedestrian overcrossing. VTA will be required to pay UPRR the sum of sixteen thousand four hundred and eighty dollars (\$16,480) in consideration of the right granted to VTA and the City. Additionally, the agreement grants a right-of-entry to the City to maintain, repair, use and operate the pedestrian overcrossing for the life of the bridge. Under this agreement, the City will not be required to obtain ROW entry permits or enter into a separate right-of-entry agreement with UPRR for general maintenance and repairs of the bridge. For any construction work performed by City or City's contractor, the parties will need to obtain a right-of-way (ROW) entry permit from UPRR and/or appropriate right-of-entry agreements and insurance.
3. *An agreement between the City of San José and VTA for the transfer of ownership and maintenance of the pedestrian overcrossing to the City of San José.* As mentioned above, once the construction of the pedestrian overcrossing has been completed and all requirements of the grant have been met, VTA will transfer full ownership of the project to the City of San José through a transfer ownership agreement. Under this agreement, the City will take full ownership of the pedestrian overcrossing at no addition cost to the City (other than operations, maintenance, and repairs cost). The City will be responsible for operating and performing all required maintenance and repairs for the pedestrian overcrossing for the life of the bridge.
4. *An agreement between the City of San José and Caltrans for a maintenance easement of the pedestrian overcrossing in the City of San José.* A portion of the pedestrian overcrossing will be located in Caltrans ROW. Under this agreement, Caltrans will grant the City right-of-entry rights for the life of the pedestrian overcrossing for the purpose of operating and

maintaining the overcrossing. Under this agreement, the City will not be required to obtain ROW entry permits from the State for general maintenance or repairs of the bridge.

EVALUATION AND FOLLOW UP

No further follow-up action with Council is necessary.

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)**

While the recommendations of this memorandum do not meet any of the criteria, this memorandum will be posted on the City's website as part of the Council Agenda.

COORDINATION

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

FISCAL/POLICY ALIGNMENT

The recommended actions are consistent with the City's transportation goals to improve safety and multimodal transportation.

HONORABLE MAYOR AND CITY COUNCIL

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COST SUMMARY/IMPLICATIONS

The annual cost of operating and maintaining the Blossom Hill Pedestrian Overcrossing is estimated at approximately \$11,000. These costs reflect the estimated beginning date that the City will assume operations and maintenance responsibilities in July 2011, and considers the expiration of warranties. The operating and maintenance costs were not initially included in the Preliminary 2010-2011 General Fund Forecast that was discussed at the November 5, 2009 City Council study session but is included in the 2011-2015 General Fund Five-Year Forecast which was released in February 2010.

BUDGET REFERENCE

Not applicable.

CEQA

Exempt, PP10-054

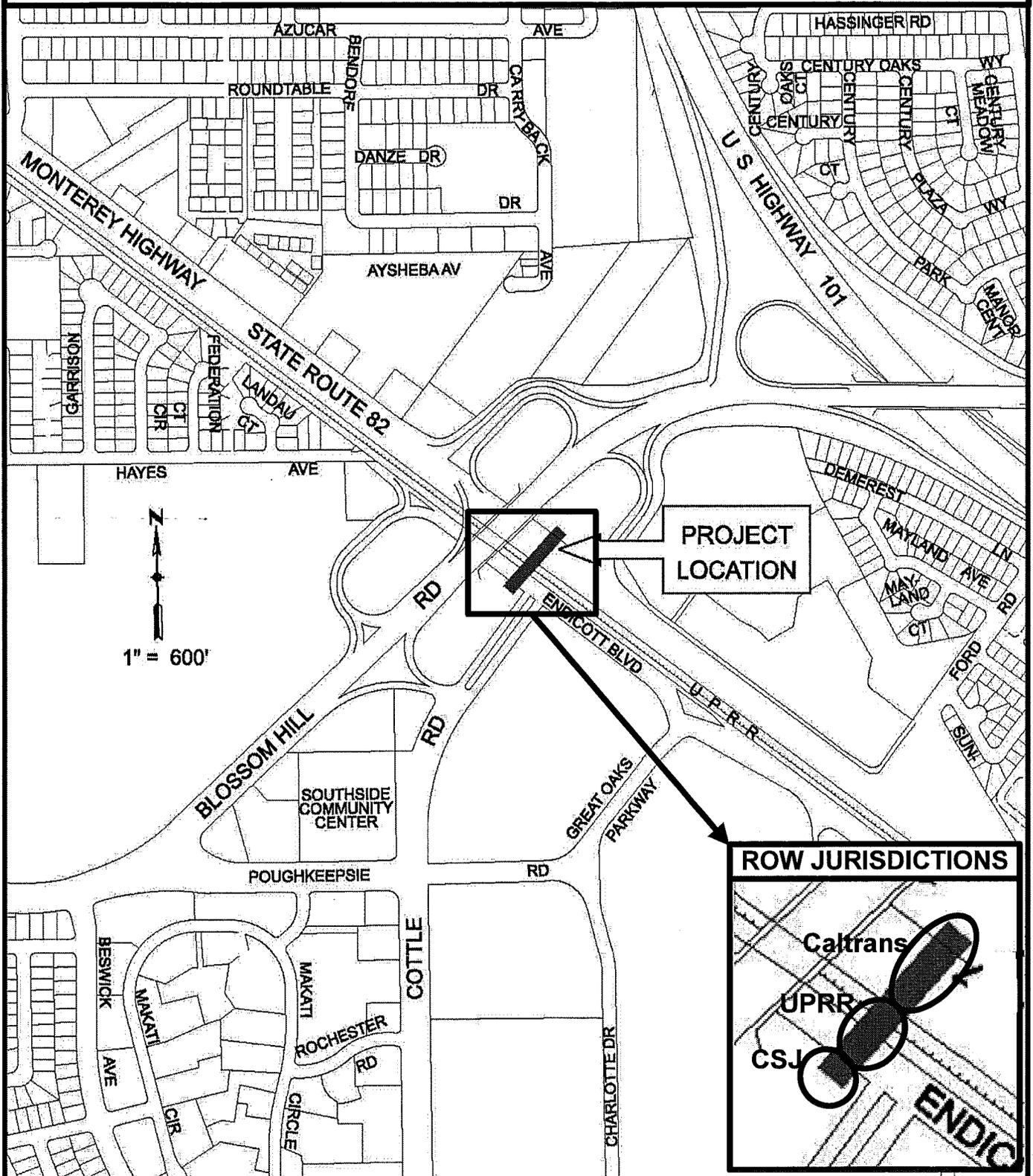
/s/

HANS F. LARSEN
Acting Director of Transportation

For questions please contact Ray Salvano, Division Manager for Regional Transportation Projects, at (408) 975-3706.

Attachment

ATTACHMENT A – VICINITY MAP



VICINITY MAP

BLOSSOM HILL PEDESTRIAN OVERCROSSING

CITY OF SAN JOSE

DEPARTMENT OF TRANSPORTATION

FEBRUARY 2010