



Distributed on:

Sent to Council:

APR 20 2010

by City Manager's Office

Memorandum

**TO: HONORABLE MAYOR
AND CITY COUNCIL**

FROM: Nadine Nader

SUBJECT: Early Council Packet

DATE: April 20, 2010

Approved

Date

4-20-10

EARLY DISTRIBUTION COUNCIL PACKET FOR MAY 4, 2010

Please find attached the Early Distribution Council Packet for the May 4, 2010 Council Meeting.

4.x Final Public Hearing of the Consolidated Plan 2010-2015, Annual Action Plan 2010-2011 and Analysis of Impediments to Fair Housing Choice.

Recommendation:

- (a) Hold a final public hearing regarding the approval of the City's Consolidated Plan – Five Year Plan 2010-2015, Annual Action Plan 2010-2011, and the Analysis of Impediments (AI) to Fair Housing Choice;
- (b) Adopt the City's Five Year Consolidated Plan for FY 2010-2015 and AI;
- (c) Adopt the City's Annual Action Plan FY 2010-2011, including the FY 2010-2011 funding recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program;
- (d) Adopt a resolution authorizing the Director of Housing to negotiate and execute all non-capital agreements and contracts not requiring CEQA/NEPA review and to negotiate all capital project agreements and contracts, including any amendments or modifications, for the expenditure of CDBG, ESG, HOME and HOPWA funds on behalf of the City; and
- (c) Authorize the Housing Department to submit the Five Year Consolidated Plan FY 2010-2015, Annual Action Plan FY 2010-2011, and AI to the U.S. Department of

Housing and Urban Development (HUD), which makes the City eligible to receive and distribute approximately \$16.9 million for FY 2010-2011.

CEQA: Not a Project. (Housing)

4.x Stevens Creek Boulevard Digital Sign Pilot Program.

Recommendation: Accept staff report and direct staff to revise the proposed Stevens Creek Boulevard Digital Sign Pilot Program parameters as follows:

- (a) Change the physical criteria for parcels that are able to qualify for a digital sign under the Pilot Program from any parcel with 350 linear feet or more of frontage on Stevens Creek Boulevard (as originally proposed by staff) to any parcel with 300 linear feet or more of frontage on Stevens Creek Boulevard or any parcel with less than 300 feet of frontage on Stevens Creek Boulevard which is 5 acres or more in size.
- (b) Remove parcels fronting onto Kiely Boulevard or Saratoga Avenue from the Stevens Creek Boulevard Digital Sign Pilot Program Area.
- (c) Direct the Administration to incorporate the above provisions into an ordinance developed to establish a Stevens Creek Boulevard Digital Sign Pilot Program for consideration by Council.

CEQA: Not a Project, File No. PP10-069, Strategy Development. (Planning, Building and Code Enforcement)

9.x Agreements with Macias, Gini & O'Connell LLP to Provide Annual Financial and Compliance Audits.

Recommendation:

- (a) Approval by the City Council of an agreement with Macias Gini & O'Connell LLP to perform Annual Financial and Compliance Audit Services for fiscal years ending June 30, 2010, 2011, and 2012, and with two (2) one-year extension options for fiscal years ended June 30, 2013 and 2014, for a fee not to exceed \$495,554 for fiscal years 2010-11 and 2011-12, and with annual increases adjusted by the CPI for each subsequent fiscal year, for a total amount not to exceed \$2,631,455 for the potential five-year term, subject to annual appropriation of funds by the City Council.
- (b) Approval by the Redevelopment Agency Board of an agreement with Macias Gini & O'Connell LLP to perform Annual Financial and Compliance Audit Services for fiscal years ending June 30, 2010, 2011, and 2012, and with two (2) one-year extension options for fiscal years ended June 30, 2013 and 2014, for a fee not to exceed \$81,375 for fiscal years 2010-11 and 2011-12, and with annual increases adjusted by the CPI for each subsequent fiscal year, for a total amount not to exceed \$432,112 for a potential five-year term, subject to annual appropriation of funds by the Redevelopment Agency Board.

(City Auditor)

HONORABLE MAYOR AND CITY COUNCIL

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These items will also be included in the Council Agenda Packet with item numbers.



NADINE NADER

Assistant to the City Manager



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: April 13, 2010

Approved

Date

4-20-10

COUNCIL DISTRICT: City-Wide
SNI AREA: N/A

SUBJECT: FINAL PUBLIC HEARING AND APPROVAL OF THE FIVE YEAR CONSOLIDATED PLAN FY 2010-2015, ANNUAL ACTION PLAN FY 2010-2011, AND THE ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

RECOMMENDATION

It is recommended that:

1. The City Council hold a final public hearing regarding the approval of the City's Consolidated Plan – Five Year Plan 2010-2015, Annual Action Plan 2010-2011, and the Analysis of Impediments (AI) to Fair Housing Choice;
2. The City Council adopt the City's Five Year Consolidated Plan for FY 2010-2015 and AI;
3. The City Council adopt the City's Annual Action Plan FY 2010-2011, including the FY 2010-2011 funding recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program;
4. Adopt a resolution authorizing the Director of Housing to negotiate and execute all non-capital agreements and contracts not requiring CEQA/NEPA review and to negotiate all capital project agreements and contracts, including any amendments or modifications, for the expenditure of CDBG, ESG, HOME and HOPWA funds on behalf of the City;
5. Authorize the Housing Department to submit the Five Year Consolidated Plan FY 2010-2015, Annual Action Plan FY 2010-2011, and AI to the U.S. Department of Housing and Urban Development (HUD), which makes the City eligible to receive and distribute approximately \$16.9 million for FY 2010-2011.

OUTCOME

The Mayor and City Council's approval of the Five Year Consolidated Plan FY 2010-2015, Annual Action Plan 2010-2011, and AI will enable the City to finalize and submit to HUD these

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Subject: Final Public Hearing of the Consolidated Plan 2010-2015, Annual Action Plan 2010-2011 and Analysis of Impediments to Fair Housing Choice

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federally mandated documents by the May 15, 2010 deadline. By approving the Annual Action Plan, the City will be eligible to receive and distribute approximately \$16.9 million in entitlement funds in FY 2010-2011.

BACKGROUND

This year, the City will adopt a Five-Year Consolidated Plan for the period FY 2010-2015, an Annual Action Plan for FY 2010-2011, and the Analysis of Impediments to Fair Housing Choice (AI). The Consolidated Plan assesses the City's current housing market; analyzes demographic, ethnic, and socio-economic conditions; and identifies populations within the City who have the greatest community and housing needs, including seniors, families, persons who are homeless or at risk of homelessness, and persons with disabilities. It also defines the City's priority needs, strategies, and objectives for reducing the most prevalent barriers to housing and services in our community.

The completion of the Consolidated Plan is required for the City to receive and allocate federal CDBG, HOME, HOPWA, and ESG dollars. The Annual Action Plan provides a one-year strategy for meeting the goals stipulated in the Five-Year Consolidated Plan. As part of this effort, entitlement jurisdictions that receive direct federal funding such as San José must assess barriers to fair housing choice and identify actions to eliminate or mitigate them in an Analysis of Impediments to Fair Housing Choice report.

ANALYSIS

The City of San José participated in a countywide collaborative to develop this cycle's five-year Consolidated Plan and AI. The entitlement jurisdictions within Santa Clara County, with the exception of Milpitas, worked together on a joint Consolidated Plan and AI to develop shared regional goals and to address needs such as affordable housing, fair housing, emergency shelter, public services, economic development, and neighborhood improvement on a regional basis.

From these shared objectives and priorities, the City identified six major goals to meet both regional and local priorities:

- 1) Assist in the creation and preservation of affordable housing for lower-income and special needs households;
- 2) Support activities to end homelessness;
- 3) Support activities that assist with basic needs, eliminate blight, and/or strengthen neighborhoods;
- 4) Expand economic opportunities for low-income households;
- 5) Promote fair housing choice; and
- 6) Promote environmental sustainability.

In addition to these goals, the Annual Action Plan also contains a complete list of agencies that are recommended for funding in FY 2010-2011 and an outline of the process used to develop these recommendations.

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EVALUATION AND FOLLOW-UP

Since the public comment period closes on April 26, 2010, which is after the submission deadline for this memorandum, a matrix of all public comments with the City's responses, including any recommended amendments to the draft Five Year Consolidated Plan, Annual Action Plan, and AI, will be distributed to the City Council in the form of a Supplemental Memorandum prior to the May 4, 2010 meeting in which the City Council will consider approval of the final documents. The City will report on its progress in achieving the goals set out in the FY 2010-2011 Action Plan in the Consolidated Annual Performance and Evaluation Report (CAPER) in the fall of 2011.

POLICY ALTERNATIVES

Not Applicable

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 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)**
- Criteria 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)**

The Consolidated Plan regulations require that jurisdictions hold at least two public hearings to receive public comment. The City of San José routinely holds more public hearings than required by the federal government. This year, the City will hold a total of four public hearings on the Five Year Consolidated Plan, FY 2010-2011 Annual Action Plan, and AI. The City sent individual announcements of these public hearings to over 375 organizations and individuals concerned about affordable housing and community development issues and placed an announcement in the San Jose Mercury News. These notices were also translated into Spanish, Vietnamese, and Chinese and published in La Oferta, Thoi Bao and China Press newspapers.

The City's four public hearings are as follows:

1. San José City Council meeting - March 30, 2010
2. Housing and Community Development Advisory Commission (HCDC) meeting - April 8, 2010
3. Community and Economic Development Committee (CEDC) meeting - April 26, 2010
4. San José City Council meeting - May 4, 2010

HONORABLE MAYOR AND CITY COUNCIL

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Subject: Final Public Hearing of the Consolidated Plan 2010-2015, Annual Action Plan 2010-2011 and Analysis of Impediments to Fair Housing Choice

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All public comments provided to the City either verbally or in writing will be included in the appendices of the documents when submitted to HUD.

COORDINATION

Preparation of this report has been coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

The timely submittal of the Five Year Consolidated Plan and Annual Action Plan to HUD enables the City to become eligible to receive and distribute approximately \$16.9 million in entitlement funds for 2010-2011.

COST SUMMARY/IMPLICATIONS

Without an approved Consolidated Plan, the City of San José will not be eligible to receive housing and community development funds, including CDBG, HOME, HOPWA and ESG funds, from the federal government in the amount of approximately \$16.9 million for FY 2010-2011.

BUDGET REFERENCE

Not applicable.

CEQA

Not a project.

/s/

LESLYE KRUTKO
Director of Housing

For questions please contact Leslye Krutko, Director of Housing at (408) 535-3851



Memorandum

TO: HONORABLE MAYOR AND
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: STEVENS CREEK BOULEVARD
DIGITAL SIGN PILOT PROGRAM

DATE: April 13, 2010

Approved

Date

4-20-10

COUNCIL DISTRICT: 1
SNI AREA: None

RECOMMENDATION

Accept staff report and direct staff to revise the proposed Stevens Creek Boulevard Digital Sign Pilot Program parameters as follows:

- 1) Change the physical criteria for parcels that are able to qualify for a digital sign under the Pilot Program from any parcel with 350 linear feet or more of frontage on Stevens Creek Boulevard (as originally proposed by staff) to any parcel with 300 linear feet or more of frontage on Stevens Creek Boulevard or any parcel with less than 300 feet of frontage on Stevens Creek Boulevard which is 5 acres or more in size.
- 2) Remove parcels fronting onto Kiely Boulevard or Saratoga Avenue from the Stevens Creek Boulevard Digital Sign Pilot Program Area.
- 3) Direct the Administration to incorporate the above provisions into an ordinance developed to establish a Stevens Creek Boulevard Digital Sign Pilot Program for consideration by the City Council.

OUTCOME

With City Council direction, the Administration would prepare revised sign regulations for a Stevens Creek Boulevard Digital Sign Pilot Program that balance the City's goals for visually vibrant development, successful commercial businesses and attractive commercial streetscapes, and conduct additional public outreach regarding the specific proposed regulations prior to Council consideration of the ordinance to establish such a Pilot Program.

BACKGROUND

On March 2, 2010, the City Council provided direction to prepare an ordinance establishing a three-year pilot program within a subarea of the Stevens Creek Boulevard Signage Area to test allowance for freestanding digital signs on large commercial parcels. The Council directed a Pilot Program Alternative as follows:

- 1) Increase the size of the allowed digital sign component from 50% to 60% of the total sign area;
- 2) Explore ways to allow on-site digital signs for large commercial sites with narrow frontages, taking into consideration outdoor display areas; and
- 3) Expand the pilot program area to include parcels fronting on Kiely Boulevard and Saratoga Avenue.

The first item, the 60% percent digital sign provision, required no additional analysis and will be incorporated into the draft ordinance language brought back to Council for consideration. Staff has prepared additional analysis and recommendations regarding items 2 and 3 above (the parcel criteria and expansion of the Pilot Program area) as summarized in the Analysis section below.

ANALYSIS

Key prerequisites for establishment of a special sign zone include: 1) a rationale explaining unique characteristics of a specific area or areas that justify or warrant sign provisions that address or account for those distinctive features, and 2) sign criteria that are consistent with and support that rationale. Generally, the same sign criteria need to be applied to all areas that share the same characteristics.

The proposed Stevens Creek Boulevard Digital Sign Pilot Program Area involves a major commercial street with a concentration of large lots and a cluster of similar retail uses where greater visual intensity of programmable display signs would appear to be appropriate to the scale of the large streets and the concentration of large lots with a uniformity of retail sites. Staff has identified two other commercial streets with similar physical characteristics, the Capitol Expressway Auto Mall Signage Area and Blossom Hill Road in the vicinity of Oakridge Mall. Based on the visual impacts and other findings (such as traffic impacts) observed during the proposed three-year Pilot Program, the Council would have the option towards the end of that Pilot Program of adopting permanent digital sign regulations that apply to all similar areas citywide (i.e., Capitol Expressway and Blossom Hill Road in addition to the Stevens Creek Boulevard Pilot Program Area) or ending the Pilot Program and amortizing the signs approved through the pilot. Staff has evaluated the proposed additional provisions for the Pilot Program in light of these key issues.

Digital Signs for Large Commercial Sites with Narrow Frontages

Table 1 provides an analysis of the number of qualifying parcels based on alternative street frontage and parcel size criteria. Based on this analysis, staff is recommending criteria that include both street frontage and parcel size, i.e., a minimum frontage of 300 linear feet on Stevens Creek Boulevard or a minimum parcel size of 5 acres or more. These criteria capture parcels with a long street frontage as well as parcels with a shorter street frontage that are large due to significant depth. The revised proposal increases the number of eligible parcels in the proposed Pilot Program Area from 4 to 10, while continuing to maintain criteria descriptive of a “large parcel” along a major commercial street where such additional signage would appear to be appropriate, proportionally and from a visual impact perspective, consistent with the rationale for the proposed Pilot Program sign area.

Table 1. Analysis of Parcel Criteria for Stevens Creek Boulevard

Staff Recommendation	Criteria for a Digital Sign (Street Frontage in Linear Feet, Parcel Size in Acres)	Number of Qualifying Parcels
	Alternative 1. Street Frontage	
Original	350+ ft.	4
	300 + ft.	7
	250+ ft.	12
	Alternative 2. Parcel Size	
	5+ acres	7
	Alternative 3. Street Frontage <u>or</u> Parcel Size	
	350+ ft. <u>or</u> 5+ acres	9
Revised	300+ ft. <u>or</u> 5+ acres	10
	250+ ft <u>or</u> 5+ acres	13
	Total Commercial Parcels in Pilot Program Area: 33	

In response to Council direction, staff also examined the addition of a criterion that takes into consideration parcels whose buildings are significantly set back from the street (buildings with setbacks of 120 feet or more). The rationale for this provision would be that signage on buildings with a large front setback is less visible and these sites need more visible digital signs. This additional criterion resulted in only two additional sites qualifying for a digital sign (the Cost Plus and Super Buffet sites). Most of the sites with large building setbacks are relatively large sites that would already qualify for a digital sign under the frontage or parcel size criteria. Staff is not recommending inclusion of this criterion because it offers minimal benefit over the existing criteria in terms of the City utilizing the Pilot Program to evaluate the impacts of allowing digital signs on large parcels along major commercial streets.

Expansion of the Pilot Program Area to Include Kiely Boulevard and Saratoga Avenue

The City Council requested expansion of the proposed Pilot Program Area to include the parcels fronting on the north side of Kiely Boulevard and west side of Saratoga Avenue as indicated in Figure 1, but did not specify whether the frontage criteria previously proposed for Stevens Creek Boulevard should be applied to these additional commercial streets. If the intent of this expansion was to apply the proposed frontage criteria to these additional streets, the proposal has significant citywide implications for any future permanent digital sign program. Stevens Creek Boulevard within the Pilot Program Area is a 120 foot wide commercial street bordered by a large number of commercial parcels. Kiely Boulevard, at 90 feet in width, is a relatively narrow commercial street with a handful of commercial parcels. Applying the characteristics of Kiely Boulevard on a citywide basis would greatly expand the areas in which digital signs would be allowed.

Figure 3 shows staff's initial estimate of the specific commercial areas that would need to be included in any digital sign program based on applying the Kiely Boulevard characteristics (90-foot wide commercial street with a small cluster of commercial parcels) on a citywide basis. The number of affected streets would increase from 3 to over 25 and the number of affected commercial areas would increase to approximately 45 separate locations. Based on the citywide results and implications of allowing signs for the expanded Pilot Program Area along streets of this smaller dimension (which would be to open up the potential areas for these signs on a much broader basis), staff is recommending that the parcels fronting on Kiely Boulevard and Saratoga Avenue be removed from the Pilot Program. This action would narrow the implications of the proposed initial Pilot Program without limiting the Council's ability in the future to authorize digital signs more broadly in San Jose's commercial areas if the results of the Pilot Program suggest to the Council that this later action would be appropriate.

Based on this analysis, staff is recommending that the boundary of the Pilot Program Area be revised to exclude the parcels fronting on Kiely Boulevard and Saratoga Avenue, as indicated in Figure 2, and that only large parcels¹ with frontage on Stevens Creek Boulevard be eligible for a digital sign under the Pilot Program. Under this proposal, other similar areas that would need to be considered for digital signs at the conclusion of the Stevens Creek Boulevard Digital Sign Pilot Program would be the Capitol Expressway Auto Mall Signage Area and Blossom Hill Road between Blossom River Drive and Santa Teresa Boulevard, as previously identified.

¹ The term "parcel" as applicable here includes any entire site developed under a single development permit (which may include multiple parcels).

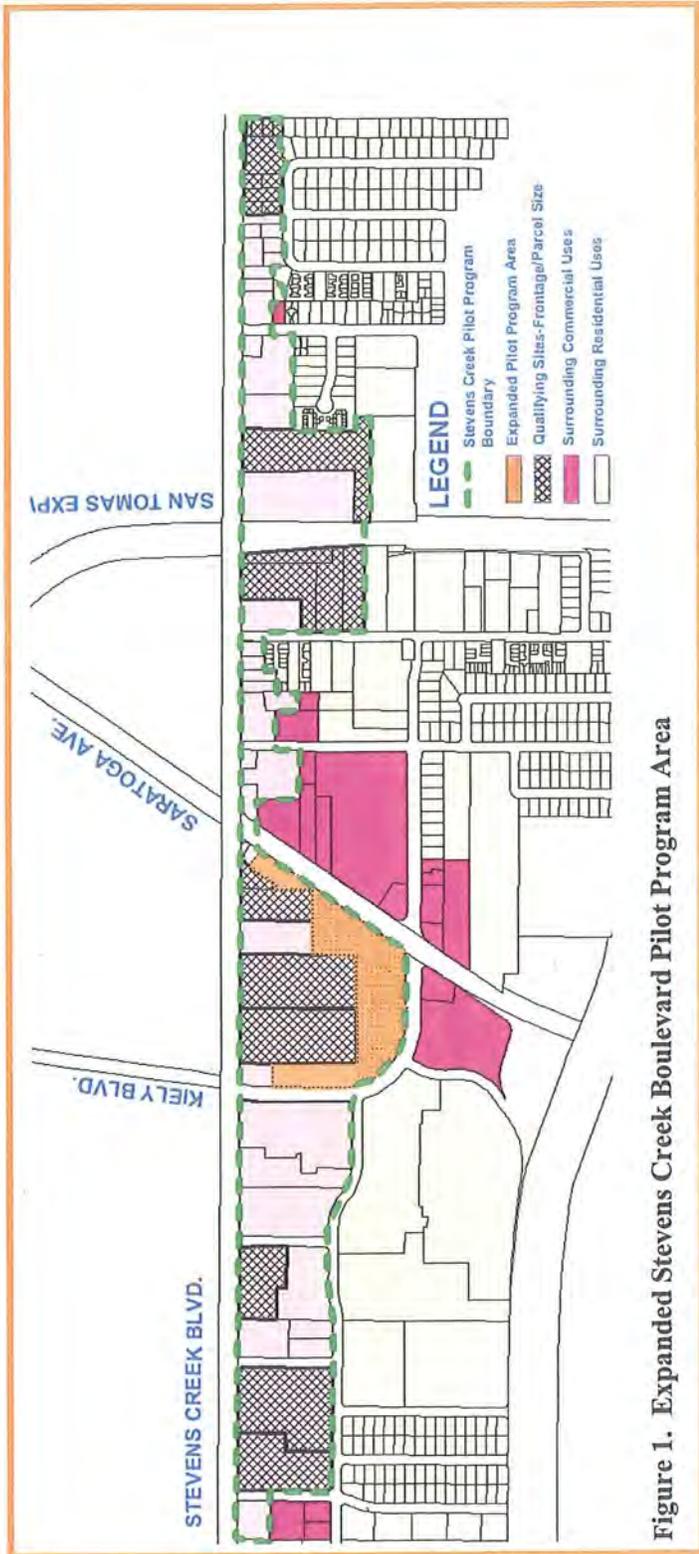


Figure 1. Expanded Stevens Creek Boulevard Pilot Program Area

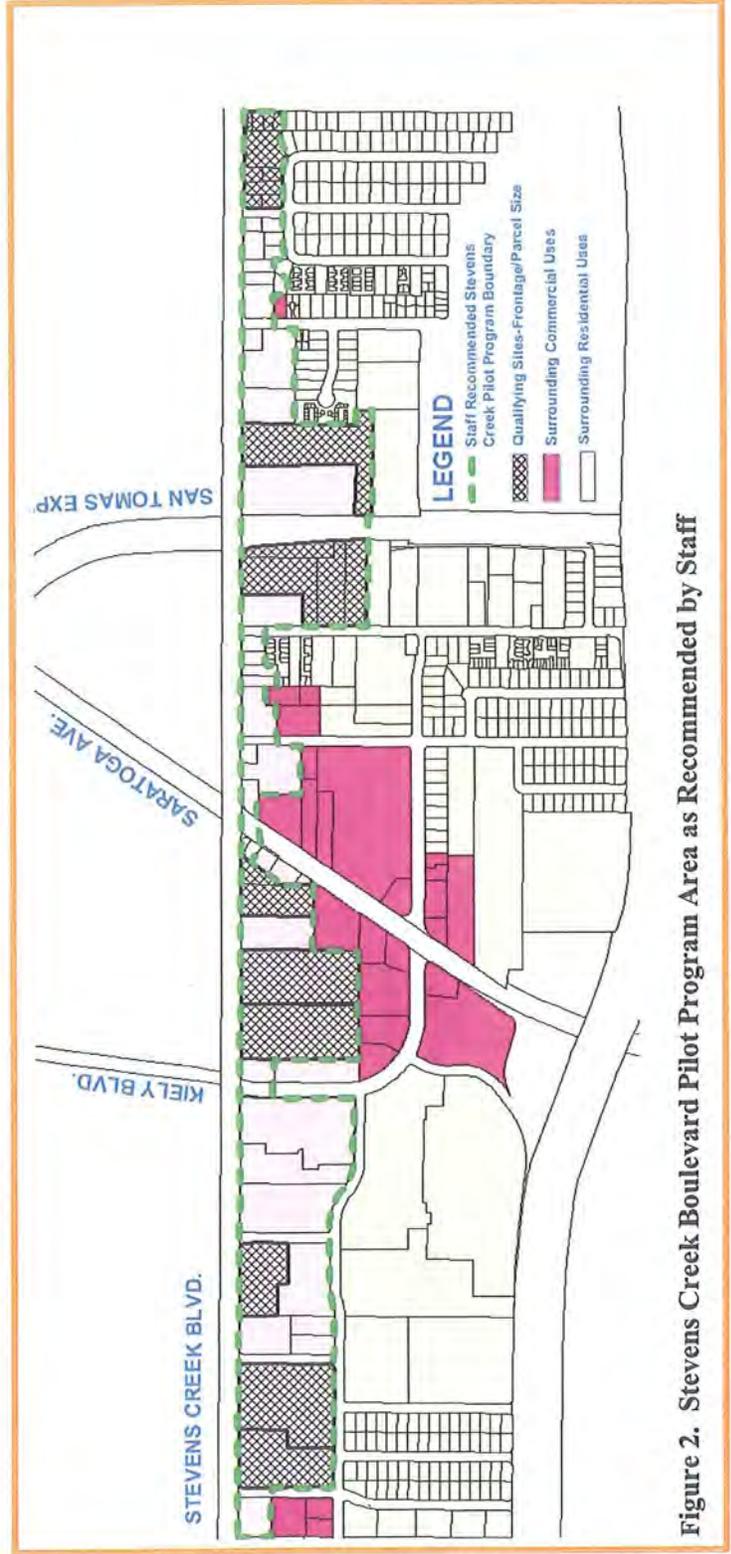
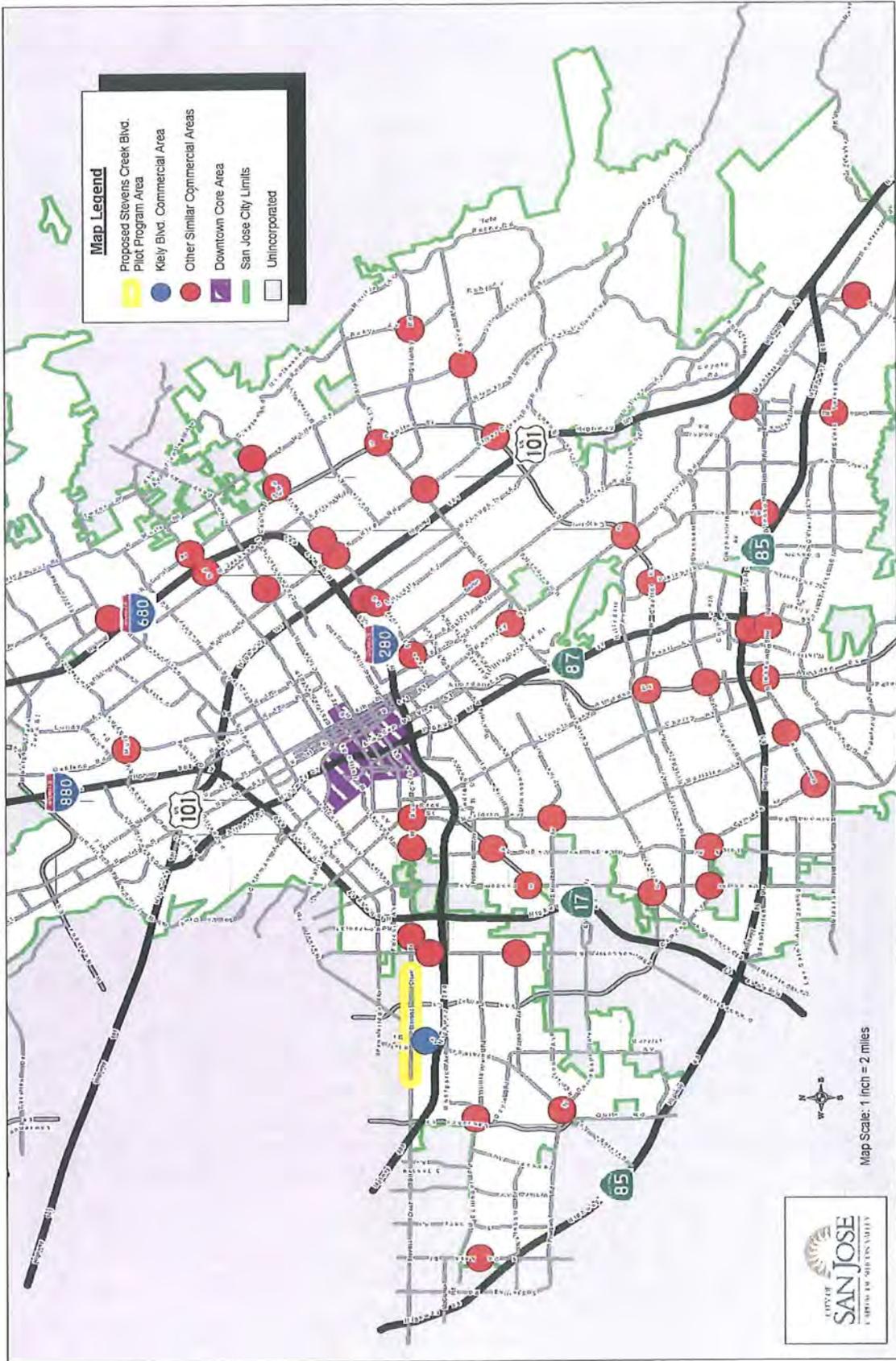


Figure 2. Stevens Creek Boulevard Pilot Program Area as Recommended by Staff

City of San Jose Citywide Implications of Digital Signs on Kiely Boulevard



Map Prepared by: City of San Jose, Planning Division, April 2010

Figure 3. City of San Jose – Citywide Implications of Digital Signs on Kiely Boulevard

Conclusion

The recommended revisions to the proposed Stevens Creek Boulevard Digital Sign Pilot Program provide an initial mechanism whereby the City can review and test the impacts resulting from allowing freestanding digital signs on large parcels on a major commercial street before making a permanent decision on whether to implement such a program permanently City-wide on other similar large commercial streets. The recommended provisions in no way limit the City Council's ability in the future to expand the provision for digital signs to additional commercial areas. Alternatively, at the end of the Pilot Program, the City could decide to eliminate the Pilot Program based upon the impacts observed and not implement such signage provisions City-wide and would consider how to amortize out the signage allowed under the Pilot Program.

EVALUATION AND FOLLOW-UP

Based on direction from the City Council regarding the Stevens Creek Boulevard Digital Sign Pilot Program, staff will complete drafting ordinance provisions for the Stevens Creek Digital Sign Pilot Program, conduct additional public outreach, prepare environmental review documents, and bring the draft ordinance forward for consideration by the City Council as part of the Sign Code Update.

POLICY ALTERNATIVES

The following alternative was considered in the development of the recommendations included in this report:

Alternative #1: Revise the parcel criteria identifying large sites within the Pilot Program Area that would qualify for a digital sign so as to increase the number of qualifying sites.

Pros: Additional business within the Pilot Program Area would benefit from the ability to display digital signs.

Cons: Significant reduction in the frontage and parcel size criteria would achieve only marginal increases in the number of qualifying parcels and could undermine the rationale for allowing digital signs for large parcels on a wide commercial street.

Reason for not Recommending: Staff's proposed parcel criteria maximize the number of qualifying parcels while supporting the basic rationale for the proposed sign zone.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- Criteria 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)**
- Criteria 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.

Public outreach for this proposal conforms to the Public Outreach Policy. A notice of the Council meeting for this item was emailed to a list of community groups, other organizations, business interests, sign industry representatives and interested individuals, and was posted on the City's website. The overall Sign Code Update included public outreach that was conducted over a five-month period with a total of 8 community meetings; 15 focus group/stakeholder meetings; meetings with 5 Strong Neighborhood Initiative Groups, with representatives of the outdoor advertising industry and with the Chamber of Commerce; and an Internet Visual Preference Survey of San Jose residents. In addition, staff has discussed specific signage issues with numerous individuals and development representatives to obtain input regarding the proposed regulations. This staff report is available for review on the City's website.

COORDINATION

This proposal and this memorandum were coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan and City Council policies.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

HONORABLE MAYOR AND CITY COUNCIL

April 13, 2010

Subject: Stevens Creek Boulevard Digital Sign Pilot Program

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CEQA

Not a Project, PP10-069, Strategy Development.

/s/

JOSEPH HORWEDEL, DIRECTOR

Planning, Building and Code Enforcement

For questions please contact Carol Hamilton, Senior Planner, at 408-535-7837.



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL AND
REDEVELOPMENT AGENCY BOARD

FROM: Sharon W. Erickson

SUBJECT: AGREEMENTS WITH MACIAS,
GINI & O'CONNELL LLP TO
PROVIDE ANNUAL FINANCIAL
AND COMPLIANCE AUDITS

DATE: April 20, 2010

Approved

Date

RECOMMENDATION

- (a) Approval by the City Council of an agreement with Macias Gini & O'Connell LLP to perform Annual Financial and Compliance Audit Services for fiscal years ending June 30, 2010, 2011, and 2012, and with two (2) one-year extension options for fiscal years ended June 30, 2013 and 2014, for a fee not to exceed \$495,554 for fiscal year 2010-11 and with annual increases adjusted by the CPI for each subsequent fiscal year, subject to annual increases adjusted by the CPI for each subsequent fiscal year, for a total amount not to exceed \$2,631,455 for a potential five year term subject to annual appropriation of funds by the City Council.
- (b) Approval by the Redevelopment Agency Board of an agreement with Macias Gini & O'Connell LLP to perform Annual Financial and Compliance Audit Services for fiscal years ending June 30, 2010, 2011, and 2012,, and with two (2) one-year extension options for fiscal years ended June 30, 2013 and 2014, for a fee not to exceed \$81,375 for fiscal year 2010-11 and with annual increases adjusted by the CPI for each subsequent fiscal year, subject to annual increases adjusted by the CPI for each subsequent fiscal year, for a total amount not to exceed \$432,112 for a potential five year term subject to annual appropriation of funds by the Redevelopment Agency Board.

BACKGROUND

Section 805 of the San Jose City Charter requires that the independent Office of the City Auditor conduct or cause to be conducted annual post audits of all the fiscal transactions and accounts kept by or for the City. Section 805 specifies that such audits shall include but not be limited to the examination and analysis of fiscal procedures and the examination, checking, and verification of accounts and expenditures. The audits shall be conducted in accordance with generally accepted auditing standards and accordingly shall include tests of the accounting records and

other auditing procedures as may be considered necessary under the circumstances. The audits shall include the issuance of suitable reports of examination so the Council and the public.

Section 1215 of the San Jose City Charter further requires that the City Council employ an independent certified public accountant who shall audit the municipal books, records, accounts and fiscal procedures of all officers of the City who receive, administer or disburse public funds on behalf of the City.

In addition to the above requirements set forth in the City Charter, as a recipient of Federal, State, and local government financial assistance, the City is required to undergo a compliance audit in conformity with the provisions of the Single Audit Act of 1984, as amended in 1996, the United States Office of Management and Budget Circular A-133, Audits of State, Local Governments and Non-Profit Organizations and Government Auditing Standards issued by the Comptroller General of the United States.

Macias Gini and O'Connell, LLP (MGO) has conducted the annual financial and compliance audits of the City and its related entities for the past ten years. The contract with MGO ends on April 30, 2010. Accordingly, the independent Office of the City Auditor initiated a Request for Proposal (RFP) process to select a firm to provide financial and compliance audit services.

ANALYSIS

With input from various departments, the independent Office of the City Auditor prepared an RFP for external audit services for the City and all its related entities. The RFP was posted on the BidSync e-Procurement system March 8, 2010 (RFP09-10-EA1).

As in previous years, the RFP covered the City, Airport, Convention and Cultural Facilities, Hayes Mansion, Deferred Compensation (separate contract), Redevelopment Agency (separate contract), Retirement Funds (separate contracts), and San Jose-Santa Clara Clean Water Financing Authority (separate contract). The intent of a consolidated RFP process for all of the City's related entities was improved timeliness, increased efficiency, and better pricing. Because auditor rotation is not mandatory, we encouraged participation in the RFP by all qualified firms, including MGO.

More than 100 inquiries and clarification requests were received, and answers were distributed on BidSync on March 22, 2010. Six (6) proposals were received by the due date on March 29, 2010. One proposal was determined to be non-responsive; a seventh proposal was received by email after the due date.

The remaining five (5) proposals were evaluated by an interdepartmental team consisting of staff from the City Auditor's Office, Finance, Airport, Housing, Redevelopment, and Retirement Services. Proposals were evaluated using the following criteria and weighting:

Criteria	Weight
Minimum qualifications	Pass/Fail
Organizational experience of the firm	15%
Project team	20%
Proposer capabilities and approach	30%
Local business enterprise preference	5%
Small business enterprise preference	5%
Cost	25%

In the first phase, the team evaluated respondents on the basis of their written proposals, and selected three (3) firms to be interviewed. After the interviews, the evaluation team finalized their rankings. The evaluation team recommended the selection of MGO to provide financial and compliance audit services and to enter into agreements with the firm. The table below provides a summary of the evaluation that was conducted in accordance with the process set forth in the RFP:

Rank	Firm	Experience of Firm	Project Team	Capabilities and Approach	Local Business Enterprise Preference	Small Business Enterprise Preference	Cost	TOTAL
	Weight	15%	20%	30%	5%	5%	25%	100%
1	Macias Gini & O'Connell	14.57	18.00	27.00	0.00	0.00	23.00	82.57
2	KPMG	13.07	17.71	20.14	5.00	0.00	17.00	72.93
3	Maze & Associates	10.93	15.71	22.71	0.00	0.00	22.00	71.36
4	Mayer Hoffman McCann	9.00	11.43	16.29	5.00	0.00	25.00	66.71
5	Vavrinek, Tine, Day & Co	8.79	11.14	17.57	5.00	0.00	21.00	63.50

A sixth firm, Moss Adams LLP, submitted a proposal, but was determined to be non-responsive because the proposal was not complete.

MGO is an experienced, government audit firm. In addition to having been San Jose's auditor for the last 10 years, MGO is the principal auditor for some of the largest cities in California including San Diego, San Francisco, Fresno, Sacramento, Oakland, and Santa Ana. MGO received an unqualified opinion (the highest level of assurance possible) during their 2009 quality control review. To keep things fresh, MGO is rotating in experienced partners and additional expertise to the San Jose engagement, including additional expertise in auditing retirement systems and Redevelopment Agencies.

The service specified in the RFP will be addressed in six separate agreements with **total annual compensation totaling \$688,000 for each of the first two years (a savings of \$130,859, or**

16% less than MGO's 2009 contract fees of \$818,859). The six agreements with the respective services and first-year compensation are shown below.

1. Agreement 1 is for general audit services with total annual compensation in the first and second years not to exceed \$495,554 (a savings of \$133,474 or 21% less than last year's agreement) to provide the following:
 - General City Audit, Basic Financial Statements, Financial Disclosures, and Comprehensive Annual Financial Report (CAFR)
 - Single Audit
 - Norman Y. Mineta San Jose International Airport Financial Audit
 - San Jose-Santa Clara Clean Water Financing Authority Compliance Audit
 - Dolce-Hayes Mansion Financial Audit and Agreed-Upon Procedures
 - Bicycle/Pedestrian Facilities Grant
 - Audit of the Financial Statements Prepared by Team San Jose for the San Jose Convention Center and Cultural Facilities
 - Parks Bond Funds Financial Statements and Report on Compliance with Measure "P"
 - Branch Library Bond Projects Fund Financial Statements and Report on Compliance with Measure "O"
 - Library Parcel Tax Fund Financial Statements and Report on Compliance with Measure "S"
 - Semi-Annual Investment Program Compliance Audit
 - City's 911, Fire, Police, Paramedic and Neighborhood Security Act (Public Safety Bonds) Financial Statements and Report on Compliance with Measure "O" (2002)
2. Agreement 2 is for the financial audit of the San Jose-Clean Water Authority, with total annual compensation for the first and second years of \$13,546 (a savings of \$3,762, or 22% less than last year's agreement). This agreement is within the City Auditor's signing authority.
3. Agreement 3 is for Deferred Compensation audit services with total annual compensation for the first and second years not to exceed \$7,373. The Deferred Compensation Committee will be asked to authorize this agreement.
4. Agreement 4 is with the Redevelopment Agency with total annual compensation for the first and second years not to exceed \$81,375 (a savings of \$13,393, or 14% less than last year's agreement). In the above resolution (b), the Redevelopment Agency Board is approving this agreement to provide the following:
 - General Agency Audit, Basic Financial Statements, Other Required Supplemental Information, and CAFR
 - Compliance Audit
5. Agreement 5 is for the comprehensive annual financial audit of the Federated City Employees' Retirement System, with total annual compensation for the first and second

years not to exceed \$45,076 (an increase of \$9,900 or 28% more than last year's agreement). The Federated City Employees' Retirement System Board of administration will be asked to approve this agreement on May 13, 2010.

It should be noted that on April 8th, the Federated Board discussed, but made no decision, whether to proceed with a separate RFP for the same services described here, beginning as early as the second year of the agreement. The proposed agreement with MGO allows flexibility to adjust the scope of the work for the retirement plans, if needed.

6. Agreement 6 is for the comprehensive annual financial audit of the Police and Fire Department Retirement Plan, with total annual compensation for the first and second years of \$45,076 (an increase of \$9,900 or 28% more than last year's agreement). The Police and Fire Department Retirement Plan Board Administration will be asked to approve this agreement on May 6, 2010.

It should be noted that on April 1st, the Police and Fire Board discussed, but made no decision, whether to proceed with a separate RFP for the same services described here. The proposed agreement with MGO allows flexibility to adjust the scope of the work for the retirement plans, if needed. On April 12th, Retirement staff issued an RFP for an audit of the Police and Fire Department Retirement Plan's comprehensive annual financial statements. Depending on the actions of the Police and Fire Board on May 6th, the City Auditor may return to the City Council for additional direction.

SUMMARY AND COST IMPLICATIONS

MGO has conducted the financial and compliance audits the past ten years. Their contract ends on April 30, 2010. Accordingly, the City Auditor initiated an RFP process to select a firm to provide financial and compliance audit services. Five (5) firms were found to be responsive. The evaluation team found the MGO proposal to be complete and the firm highly qualified to perform the work. Moreover, MGO's cost proposal of \$688,000 is \$130,859 or 16% lower than the last year of our current contract. Accordingly, the evaluation team recommends that MGO be awarded the contracts to perform annual financial and compliance audits for fiscal years ended June 30, 2010, 2011, and 2012, with two (2) one-year extension options for fiscal years ended June 30, 2013 and 2014. The contract limits future annual cost increases to the Consumer Price Index Pacific and U.S. City Average, but shall not exceed 5 percent from year to year. In consideration of the City's significant budget shortfalls, MGO has agreed to waive CPI adjustments of the second year of the agreement, excepting for any additional work the City may request.

The following budget information addresses the compensation to be paid to MGO for the first year of the agreements involving the City, including the audits of the Airport, Deferred Compensation Plan, Convention Center, Dolce Hayes Mansion, and the San Jose-Santa Clara

Clean Water Financing Authority. The costs of futures years' audit services are subject to annual appropriation of funds by the City Council.

Fund #	Appn. #	Appn. Name	Total Appn.	Cost	2009-2010 Adopted Budget	Last Budget Action (Date, Ord. No.)
001	2029	Annual Audit	\$308,366	\$203,215	Operating Budget, Page IX-30	06/23/2009, Ord #28593
001	2042	Grant Compliance Single Audit	\$118,652	\$71,927	Operating Budget, Page IX-31	06/23/2009, Ord #28593
001	3727	Bond Project Audits	\$115,625	\$50,881	Operating Budget, Page IX-30	10/20/2009, Ord #28653
418	0722	Library Non-Personal/Equipment	603,500	\$11,395	Operating Budget, Page XI-52	10/20/2009, Ord #28653
523	2029	Annual Audit (Airport)	\$68,250	\$55,393	Operating Budget, Page XI-3	06/23/2009, Ord #28593
465	4292	Bicycle and Pedestrian Facilities	\$823,000	\$7,878	Capital Budget, Page V-962	10/20/2009, Ord #28653
541	0047	Clean Water Financing Authority Compliance Audit	\$30,000	\$21,049	Operating Budget, Page XI-82	06/23/2009, Ord #28593
422	3356	Hayes Consultant Services	120,199	\$30,401	Operating Budget, Page XI-24	02/09/2010, Ord #28698
536	0672	Convention Facilities Non-Personal/Equipment	\$5,104,549	\$43,415	Operating Budget, Page XI-25	02/09/2010, Ord #28698
001	0482	Human Resources Non-Personal/Equipment (Deferred Comp Audit)	\$1,257,275	\$7,373	Operating Budget, Page VIII-140	02/09/2010, Ord #28698
512	4341	Plant Reliability	\$20,900,000	\$13,546	Capital Budget, Page V-147	06/23/2009, Ord #28593

The proposed first year fee of \$45,076 for the City Employees' Retirement System financial audit will be paid out of the Federated Retirement Fund budget. The proposed first year fee of \$45,076 for the Police and Fire Department Retirement Plan financial audit will be paid out of

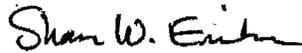
Honorable Mayor And City Council
And Redevelopment Agency Board
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the Police and Fire Retirement Fund budget. The cost of future years' audit services is subject to approval of each Plan's annual budget by the respective Retirement boards.

The proposed first year fee of \$81,375 for the Redevelopment Agency financial audit will be paid out of the Agency's annual operating budgets. The cost of future years' audit services is subject to annual appropriation of funds by the Redevelopment Agency Board.

COORDINATION

This memorandum has been coordinated with Purchasing, the City Attorney's Office, the Finance Department, Redevelopment Agency, and the Budget Office.



Sharon W. Erickson
City Auditor

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