



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Albert Balagso

SUBJECT: SEE BELOW

DATE: 05-04-10

Approved

Date

5-7-10

COUNCIL DISTRICT: 3

SNI AREA: Washington,
Greater Gardner

SUBJECT: APPROVAL OF GRANT AGREEMENTS WITH THE STATE OF CALIFORNIA NATURAL RESOURCES AGENCY ASSOCIATED WITH THE GUADALUPE RIVER REACH 6 TRAIL (WOZ WAY TO VIRGINIA STREET) PROJECT

RECOMMENDATION

1. Approval of a grant agreement with the State of California Natural Resources Agency for receipt of grant funds in the amount of \$700,000 under the California River Parkways grant program from the Proposition 50 State Bond Fund for the Guadalupe River Reach 6 Trail (Woz Way to Virginia Street) Project;
2. Approval of a grant agreement with the State of California Natural Resources Agency for receipt of grant funds in the amount of \$123,574 from Proposition 13 State Bond Fund for the Guadalupe River Reach 6 Trail (Woz Way to Virginia Street) Project; and
3. Approval of a Memorandum of Unrecorded Grant Agreement to be recorded against City owned property for the Guadalupe River Reach 6 Trail (Woz Way to Virginia Street) Project as required by the State of California Natural Resources Agency as a condition of the grant agreements.

OUTCOME

City Council approval of the recommended actions will allow the City to execute grant agreements with the State of California Natural Resources Agency ("Agency") for the use of grant funds totaling \$823,574 for the construction of the Guadalupe River Trail Reach 6 (Woz Way to Virginia Street) Project ("Project"). The Project would extend the Guadalupe River Trail southward by 0.4 mile and improve access to the Guadalupe River Park from Virginia Street for the Washington and Greater Gardner Neighborhoods.

EXECUTIVE SUMMARY

City of San José was awarded two grants by the California State Resources Agency for the Guadalupe River Trail Reach 6 (Woz Way to Virginia) Project. The two grants would complete approximately 2,100 linear feet of paved trail, underpass retaining walls, ramping system, gateway structure and entry, signage, striping and other associated improvements along the Guadalupe River. Staff is recommending that the City Council approve the two agreements and a Memorandum of Unrecorded Grant Agreement to allow the City to receive grant funds.

BACKGROUND

On October 16, 2007, the City Council authorized the City Manager to submit a grant application (10-16-07, Item 2.16) and negotiate and execute the resulting grant agreement with the Agency for up to \$700,000 under the California River Parkway Grant Program (Proposition 50) for the Project.

In June 2008, the Agency notified the City Manager of its intent to award the City a grant of \$700,000 from the Proposition 50 River Parkways Program for the Project. The Agency has also made an additional \$123,574 in grant funding available for the Project to fund improvements that would provide bicycle and pedestrian trail linkages, and river viewing facilities along the trail Project. This grant source is from Proposition 13, a voter approved State bond, which had previously been allocated to complete work elsewhere in the Guadalupe River Park.

The Project consists of 2,100 linear feet of paved trail, underpass retaining walls, ramping system, gateway structure and entry, signage, striping and other associated improvements along the Guadalupe River. These improvements are consistent with the submitted grant application and include components that align with the Proposition 13 fund's status purpose. A conceptual map of the trail is attached to this memorandum as Attachment #1.

Execution of the grant agreements requires that the City record a Memorandum of Unrecorded Grant Agreement on City-owned property and repay the full grant amount to the State if the City violates the terms of the grant agreements.

ANALYSIS

The total Project cost is estimated to be \$3.1 million. The City has already expended \$1.6 million. Of the \$1.5 million required to complete the project, \$1,355,000 has been appropriated from the Parks and Recreation Bond Projects Fund and \$200,000 from the Council District 3 Construction and Conveyance Tax Fund. If grant funding is received, the grant amounts will replenish the Parks and Recreation Bond Projects: Contingency Reserve and the District 3 Construction and Conveyance Tax Fund.

Although the City Council previously authorized the City Manager to negotiate and execute the grant agreements with the Agency for this Project, staff seeks to provide the Council with details

about the Memorandum of Unrecorded Grant Agreement and repayment clauses which were not part of the previous disclosures to the City Council and previous agreements.

1. City will be required to record a Memorandum of Unrecorded Grant Agreement, incorporating by reference the grant agreements and giving public notice that the City received funds under the grant agreements to assist in developing the real property and that, in consideration for the receipt of the grant funds, the City has agreed to the terms of the agreements. A small portion of the trail improvements are to be constructed on City land (one parcel at the Woz Way entry point). The remaining land is owned by the State of California (Caltrans) and the Santa Clara Valley Water District (SCVWD). The City shall comply with the State requirement by recording a summary of the agreement on the City owned parcel on which the Project will be built. This will give constructive notice of the grant agreements to all third parties. A conceptual map of the City-owned land for this Project is attached as Attachment #2. Additionally, a sample Memorandum of Unrecorded Grant Agreement required by the State is attached to this memorandum as Attachment #3.

2. The grant agreements require the City to reimburse the State Resources Agency if the City violates the grant agreements. If the use of the property is changed to a use that is not permitted by the agreements, or if the property is sold or otherwise disposed of, at the State Resources Agency sole discretion, an amount equal to the amount of the Grant will be required to be paid back to the State. It should be noted that most of the proposed trail will be located on Caltrans property. City has obtained an encroachment permit for the construction and long-term use of the trail. However, Caltrans has the ability to take over the property for highway purposes. In the event that Caltrans revokes the encroachment permit before the 20th anniversary of the completion of the trail, the City will be required to reimburse the grant amount to the State Resources Agency. As of May 03 2010, Metropolitan Transportation Commission's adopted 2035 Transportation Plan does not indicate any development plan by Caltrans in the vicinity of the Project.

A number of other commitments are to be made with execution of the two state grant agreements. These are consistent with prior grant agreements. The City will address each commitment as summarized below:

| Commitment | Approach for Addressing |
|---|---|
| City shall have sufficient additional funds to complete the Project. | The City has sufficient appropriated funds to complete the project. |
| The City shall assume any obligation to furnish any additional funds that may be necessary to complete the Project. | Similar to other construction projects, staff will notify the City Council if additional funding beyond the allocated budget is required due to unforeseen circumstances. |
| City will advance its own funds to complete the Project. | Of the \$1.5 million required to complete the Project, \$1,355,000 was appropriated from the Parks and Recreation Bond Projects Fund, and \$200,000 from the Council District 3 Construction and Conveyance Tax Fund. |

| Commitment | Approach for Addressing |
|---|--|
| Compliance with the funding deadlines; Project must be completed no later than May 01, 2011 in order to receive full reimbursement. | The Director of Public Works estimates that the Project will be completed by December 2010. |
| The City shall maintain, operate and use the Project in fulfillment of the purpose funded pursuant to the Grants for a minimum of 25 years. | <p>The cost to operate and maintain the trail project is estimated to be \$4,820/year and \$880/year for Trail Patrols. This funding was included in the 2011-2015 Preliminary General Fund Forecast, released on October 30, 2009. Staff will seek funding as part of the Annual Budget Process.</p> <p>If Caltrans requires the use of the land on which the Trail is built during the 25 years, the City shall be obligated to pay back to the State the full sum of grant award.</p> |
| If the City fails to complete the Project in accordance with this Agreement, or fails to fulfill any other obligations of this Agreement prior to the termination date, the City shall be liable for immediate repayment to the State of all amounts disbursed by the State under the agreements, plus accrued interest and any further costs related to the Project. | All funds necessary to complete the Project have been appropriated and the Project is expected to be completed by December 2010. |
| Comply with any laws and regulations that apply to development projects, including but not limited to the California Environmental Quality Act (CEQA), legal requirements for prevailing wages, building codes, health and safety codes, and disabled access laws | The City secured CEQA clearance for the Project as part of the adopted master plan. The other requirements are consistent with City policies and practices. |

The City has entered into an agreement with the SCVWD for the maintenance of the trail.

EVALUATION AND FOLLOW UP

If the City executes the grant agreements for the Project, staff will be able to seek eligible expenses as grant reimbursements from the Agency. No other City Council follow up actions will be required.

POLICY ALTERNATIVES

Alternative #1: Do not execute the grant agreements.

Pros: Prevents expenditure of Park-Bond funds which are insufficient for further development and construction of the Project.

Cons: The City is unable to deliver to the community a project that was identified by the Park Bond.

Reason for not recommending: It is inconsistent with City Council policy not to make use of available grant funds and is inconsistent with the development plan outlined by the San José Safe Neighborhood Parks and Recreation Bond Act, Greenprint for Parks and Community Facilities and Programs (2000 edition), and San José's Green Vision.

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 memorandum does not meet any criteria. However, public outreach occurred as part of the project's master plan, adopted by the City Council in October, 2004. In addition, this memorandum will be posted on the City Council's Agenda website prior to the May 18, 2010 Council meeting.

COORDINATION

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

HONORABLE MAYOR AND CITY COUNCIL

05-04-10

Subject: Guadalupe River Reach 6 Trail (Woz Way to Virginia) Project Grant Agreements

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FISCAL/POLICY ALIGNMENT

This Project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

COST SUMMARY/IMPLICATIONS

Not Applicable

BUDGET REFERENCE

Not Applicable

CEQA

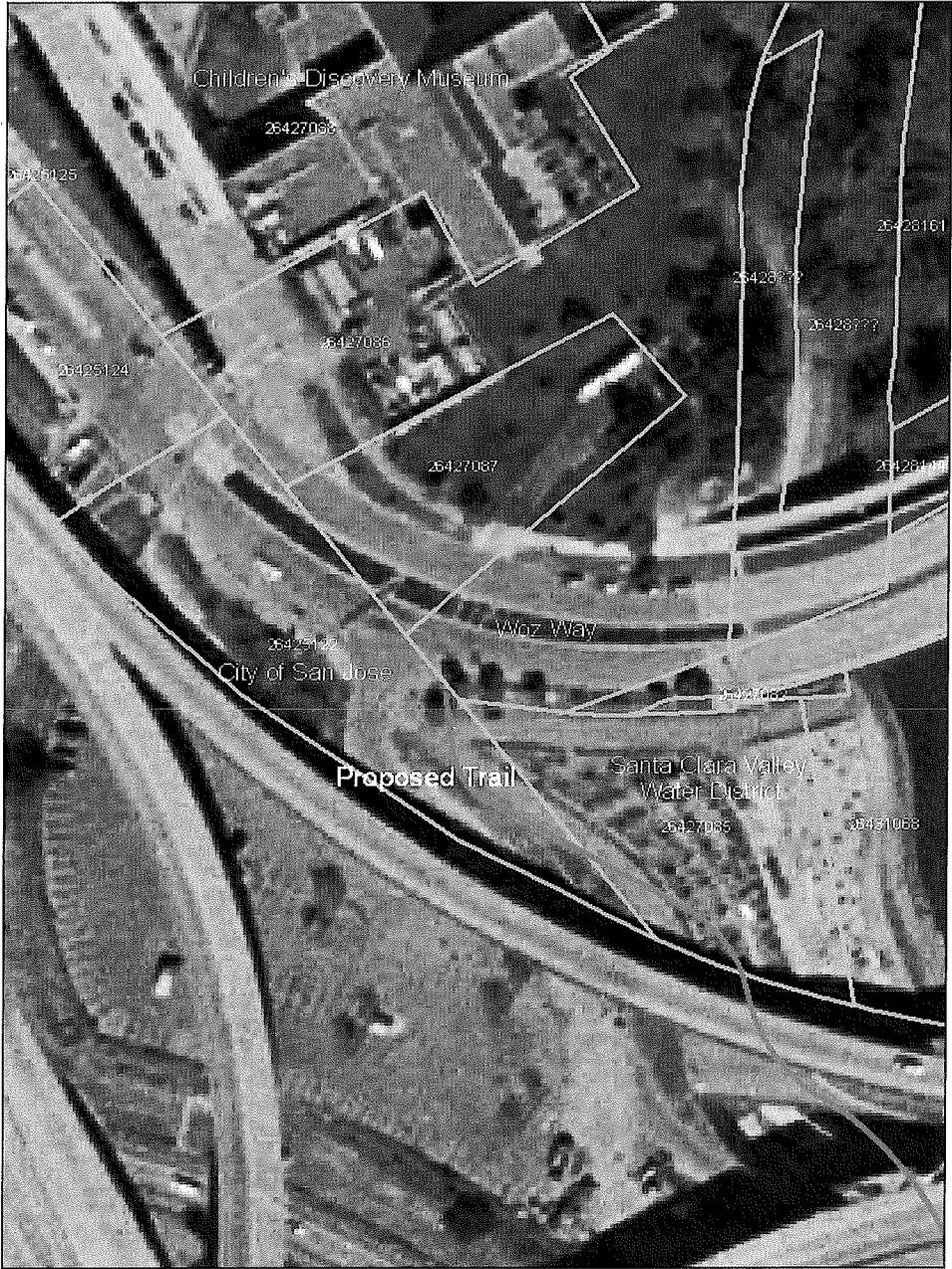
Mitigated Negative Declaration, PP04-03-102

ALBERT BALAGSO
Director of Parks, Recreation and
Neighborhood Services

For questions please contact Yves Zsutty, Park (Trail) Manager, at 408-793-5561.

Attachments: 1) Map of Guadalupe River Trail Reach 6
2) Map of City owned Parcel
3) Sample Memorandum of Unrecorded Agreement

Map of City owned Parcel



Recording requested by, and)
when recorded, return to:)
State of California)
Resources Agency)
Bonds & Grants)
1416 Ninth Street, Suite 1311)
Sacramento, CA 95814)

Space above this line for Recorder's use

SAMPLE MEMORANDUM OF UNRECORDED GRANT AGREEMENT

This Memorandum of Unrecorded Grant Agreement (Memorandum), dated as of _____, 20____, is recorded to provide notice of an agreement between the State of California, by and through the Resources Agency ("Agency") and CITY OF SAN JOSE.

RECITALS

- On or about _____, _____, Agency and Grantee entered into a certain Grant Agreement, Grant No. _____ ("Grant"), pursuant to which Agency granted to Grantee certain funds for the acquisition of certain real property, more particularly described in attached Exhibit A and incorporated by reference (the "Real Property").
- Under the terms of the Grant, Agency reserved certain rights with respect to the Real Property.
- Grantee desires to execute this Memorandum to provide constructive notice to all third parties of certain Agency reserved rights under the Grant.

NOTICE

- The Real Property (including any portion of it or any interest in it) may not be sold or transferred without the written approval of the State of California, acting through the Resources Agency, or its successor, provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained.
- The Grantee shall not use or allow the use of any portion of the real property for mitigation without the written permission of the State.
- The Grantee shall not use or allow the use of any portion of the real property as security for any debt.
- For additional terms and conditions of the Grant, reference should be made to the Grant Agreement, which is on file with the Resources Agency, 1416 Ninth Street, Suite 1311, Sacramento, California 95814.

GRANTEE:

By: _____

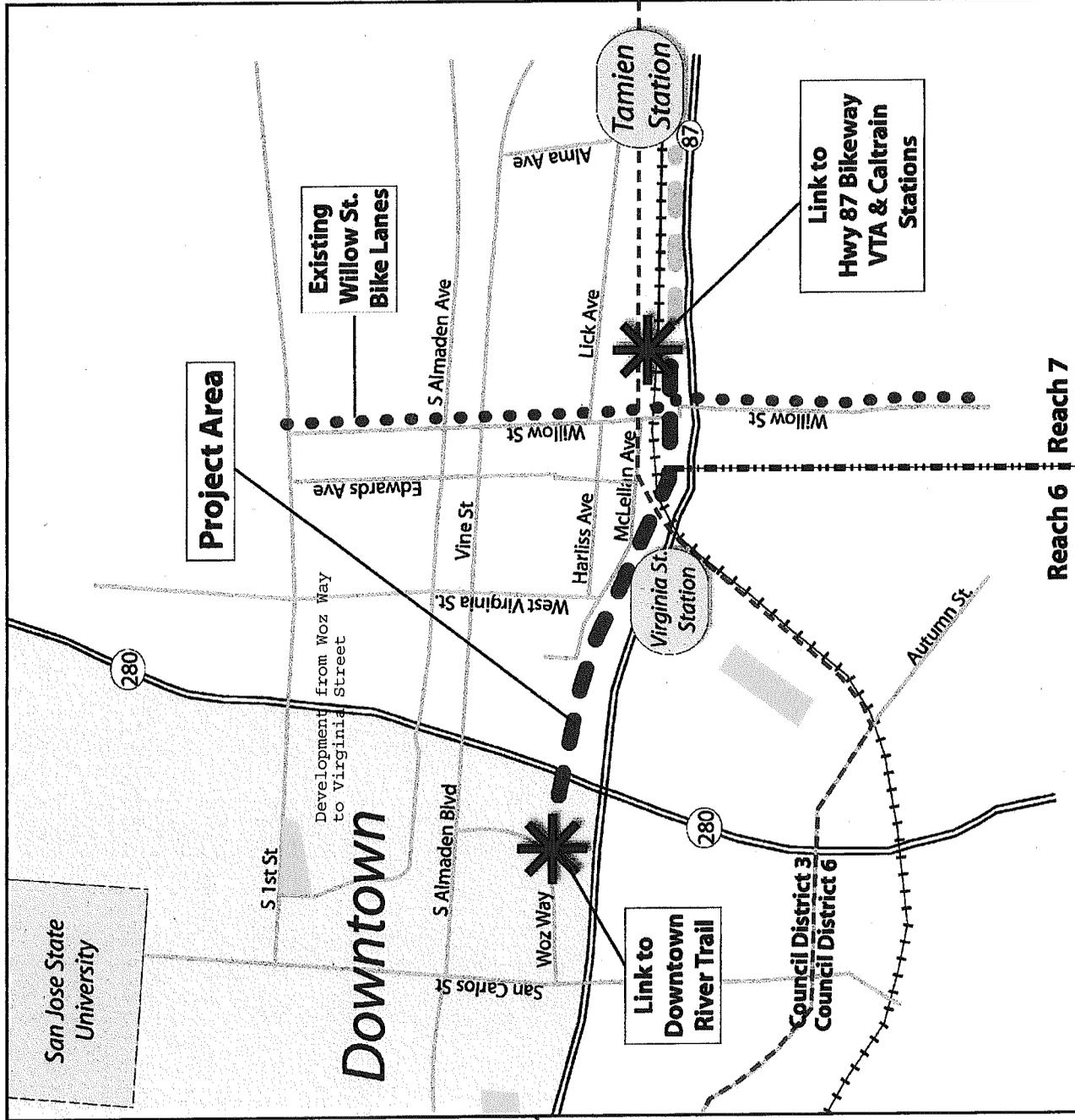


Figure 4: Project Area Map
The Planning Collaborative

